

# IN THE HIGH COURT OF SINDH AT KARACHI

Present: **Muhammad Junaid Ghaffar and Agha Faisal, JJ.**

CP D1773 of 2016 : Faizan Steel & Another vs.  
Federation of Pakistan & Another

For the Petitioner : Mr. Ghulam Nabi Shar, Advocate

For the Respondents : Mr. Kafeel Ahmed Abbasi  
Deputy Attorney General

Mr. Khalid Rajpar  
For the department

Date of hearing : 11.11.2020

Date of announcement : 11.11.2020

## JUDGMENT

**Agha Faisal, J.** The petitioners claim the benefit of Section 30-A of the Customs Act 1969 for the determination of applicable rate of the duty and submit that their consignment/s ought to have been evaluated in terms of SRO 568 of 2014 and not per the amending notification SRO 236 of 2016, whereby the rate was enhanced. The prayer clause is reproduced herein below:

- (a) *Declare that the petitioners are liable to be assessed at the declared duty rates.*
- (b) *Direct the respondent No.2 to release the goods of the petitioner at the rate of duty enforced on 19.03.2016.*
- (c) *Restrain the respondents including respondent No.2, its officers from charging the duty as per the SRO236(I)/2016 on the import/GDs preceding the issuance of notification by the petitioners or from taking any action including recovery of duty at the enhanced duty structure, on the import of Deformed Bars and Wire rods or from taking any adverse action against the petitioners.*
- (d) *Direct the Respondent no.2 to release the petitioners goods provisionally under Section 81 of the Customs Act, 1969, against PDCs covering the differential amount of duty and taxes between the declared duty structure and post-SRO duty structure of the petitioners.*
- (e) *Direct the respondents to issue delay/detention certificate for the consignments withheld due to delay in release of the consignments by the respondents...*

2. Petitioners counsel demonstrated from the record that the IGM reflected 19.03.2016 as the relevant date and that the GD/s were also filed, along with the relevant duty, on the said date. In such regard it was argued that prevalent rate of duty had crystallized on 19.03.2016, hence the consignments could not be evaluated per the subsequent amending SRO dated 21.03.2016.

3. Learned counsel for the department sought to argue that the petitioners' consignment arrived at a date subsequent to the amending notification, hence, the petition was misconceived. Learned DAG graciously submitted that if the available documentation on record demonstrates that the precepts of Section 30-A were complied with then the petitioners would be entitled to the rate of duty determined under the section claimed.

4. We have heard the arguments of the respective learned counsel and have considered the documentation and the law to which our attention was solicited. The entire case pivots on the demonstrated relevant date apparent from the record, therefore, we shall so confine this determination in such regard. It may be illustrative to reproduce Section 30-A herein below:

**30-A Date of determination of rate of duty for clearance through the Customs Computerized System:-** Subject to the provisions of Section 155A, the rate of duty applicable to any imported or exported goods if cleared through the Customs Computerized System, shall be the rate of duty in force on:-

- (a) the date of payment of duty;
- (b) in case the goods are not chargeable to duty, the date on which the goods declaration is filed with Customs.
- (c) \* \* \*

Provided that where a goods declaration has been filed in advance of the arrival of the conveyance by which the goods have been imported, the relevant date for the purposes of this section shall be the date on which the manifest of the conveyance is filed at the customs-station of first entry;

Provided further that the Board, with approval of the Federal Minister-in-charge] may, by notification in the official Gazette, specify and other date for the determination of rate of duty in respect of any goods or class of goods.

5. From a perusal of the documentation, available before this Court, it is apparent that the IGM shows the date as 19.03.2016. The payment of the relevant duties and taxes is also apparent from the relevant GDs, reflecting the date as 19.03.2016. In view of the foregoing there appears to be a preponderance of uncontroverted documentation supporting the stance of the petitioner. The learned DAG has already opined that if the precepts of section 30A stand satisfied then there is no apparent rationale to deny the benefit thereof to the petitioners.

6. In view of the foregoing, it is our considered view, in the present facts and circumstances, that no case has been made out before us to deny the benefit of Section 30-A to the petitioner, hence, this petition was allowed vide our short order. These are the reasons for the aforementioned short order.

JUDGE

JUDGE