

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C. P. No. D – 3616 / 2022 along with C. P. No. D – 3617, 3618,  
3631, 3632, 3637, 3646, 3647 / 2022**

Date

Order with signature of Judge

**PRIORITY**

- 1) For hearing of CMA No. 15922/2022.
- 2) For hearing of main case.

**23.06.2022.**

Mrs. Fouzia Rasheed & Ms. Maimona Nasreen,  
Advocates for Petitioners in C. P. No. D-3616, 3617 & 5618/2022.  
Mr. Rana Sakhawat Ali, Advocate for Petitioner  
in C.P. No. D-3631/2022.  
Ms. Saima Luqman & Mr. Siddiq Zia, Advocates for Petitioners  
in C.P. No. D-3632, 3646 & 3647/2022.  
Mr. Sardar M. Ishaque, Advocate for Petitioner  
in C.P. No. D-3637/2022.

Mr. Khaleeq Ahmed, Deputy Attorney General.  
Mr. Khalil Dogar, Ms. Masooda Siraj, Zafar Hussain & Javed  
Hussain, Advocates for Respondents / Department.

Mr. Mahmood-ul-Hassan, Additional Collector MCC (East)  
Mr. Asad Aleem, Assistant Collector (Law) MCC (East)  
Mr. Muhammad Farooq Khan, Law Officer, MCC (East)  
Mr. Raza Naqvi, Deputy Collector, MCC (West)  
Mr. Umm-e-Kalsoom, Custom Collector (Jinnah Airport)  
Mr. Nabeel Siraj, Assistant Collector (West)  
Mr. Raisa Knwal, Assistant Collector (East)  
Mr. Sardar Amin Farooqi, Assistant Collector (East)  
Mr. Tariq Aziz, Principal Appraiser, Port Qasim.

On 13.06.2022, we had passed a detailed order which also  
contained certain directions to the Respondents and the relevant  
part of the said order reads as under:-

“Be that as it may, our concern is that all along the directions of this Court have been  
apparently violated, whereas, in **Danish Jahangir (Supra)** it was held that any violation  
thereof, will result in initiation of contempt proceedings against the concerned officials,  
including the Collector concerned, therefore, we had all intention to issue such notices;  
however, have deferred the same in view of the categorical undertaking / submission of the  
learned DAG, Mr. Kafeel Abbais; Mr. Khalil Dogar and Ms. Masooda Siraj.

Therefore, in view of the above, for the present purposes, the respondents / departments / all  
concerned Collectorates, are directed to process the cases of the petitioners within (02) two  
days from today for provisional release of their consignments falling in the category of cases

as mentioned in Para 1 of this order, whereas a reply shall be filed by the two Chief Collectors i.e. Chief Collector, Appraisal & Facilitation (South) and Chief Collector, Enforcement, to the effect that they will ensure and implement the directions as recorded in aforesaid judgments of this Court and the requests of the petitioners / Importers for provisional release of their consignments under Section 81 of the Act, would be decided as directed read with office order No. No. 05/2020 dated 20.10.2020, already issued by the Chief Collectors office.

Let such compliance report be placed on or before **23.06.2022**. To be taken up at **11.30 a.m.** Office is directed to place copy of this order in all the connected matters.”

Today, compliance reports have been filed in most of the listed Petitions, including two separate statements / undertakings of the Chief Collector of Customs Enforcement (South) Karachi, and Chief Collector of Customs Appraisal (South) Karachi wherein, they have stated / undertaken as follows:-

“Humbly Sheweth,

In pursuance of the orders of this Hon'ble Court dated 13.06.2022 in the instant petition and connected matters regarding provisional assessment under Section 81 of the Customs Act, 1969 it is most respectfully submitted that it had never been intended to violate and / or to disobey and / or not to follow any judgment and / or orders of this Honorable Court on part of the department in any manner. Further, respectfully submitted that since the Tax Laws (Third Amendment) Ordinance, 2021 dated 15.09.2021 whereby the Section 81 was amended has been lapsed / expired therefore, in view of existing legal position in the Customs Act, 1969, it is declared, undertaken and ensured on behalf of the department, that the law laid down in the case law reported as **2016 PTD 702 (Danish Jahangir Versus Federation of Pakistan and Others)** and **2020 PTD 1972 (Prime Enterprises Vs. Federation of Pakistan)** shall be strictly followed in its letter and spirit. In this regards necessary instruction had been passed on to the competent assessing officers for strict compliance (**Annex-A**).

Sd/-  
**(Abdul Qadir Memon)**  
Chief Collector of Customs  
Enforcement (South)  
Karachi  
23.06.2022

“Humbly Sheweth,

In compliance of the orders of this Hon'ble Court dated 13.06.2022 in the instant petition and connected matters regarding provisional assessment under Section 81 of the Customs Act, 1969 it is most respectfully submitted that it had never been intended to violate and / or to disobey and / or not to follow any judgment and / or orders of this Honorable Court on part of the department in any manner. Further, respectfully submitted that since the Tax Laws (Third Amendment) Ordinance, 2021 dated 15.09.2021 whereby Section 81 of the Customs Act, 1969

was amended has lapsed / expired. It is therefore, declared, undertaken and ensured, on behalf of the department, that the law laid down in the case law reported as **2016 PTD 702 (Danish Jahangir Versus Federation of Pakistan and Others)** and **2020 PTD 1972 (Prime Enterprises Vs. Federation of Pakistan)** and; the Office order No. 05 of 2020 dated 20.10.2020 issued by the office of the Chief Collector Appraisement South shall be strictly followed in its letter and spirit. In this regards necessary instruction had been passed on to the competent assessing officers for strict compliance (**Annex-A, B and C**).

Sd/-  
**(Wajid Ali)**  
Chief Collector of Customs  
Appraisement (South)  
Karachi  
23.06.2022”

In the judgment reported as ***Danish Jehangir versus Federation of Pakistan*** reported in **2016 PTD 702** it has been finally held as under;

In view of hereinabove facts and circumstances we while disposing of instant petition direct the respondents as under:-

- 1) In cases where the Valuation Ruling is more than 90 days old and an importer has approached Director Valuation in terms of Para 21 of the judgment in the case of *Sadia Jabbar supra*, fresh consignments of such importers shall be allowed provisional release in terms of Section 81 of the Customs Act, 1969 by securing the differential amount of duty and taxes in the shape of Pay Order / Bank Guarantee as the case may be, by the Director Valuation and or the concerned Collector without fail.
- 2) In cases where a proper revision application has been filed by an importer in terms of Section 25-D of the Customs Act, 1969, before the Director General, Valuation, and pending such review / revision, a fresh consignment is imported, then at the request of the importer who has filed such revision / review, the consignment in question shall be released in terms of Section 81 of the Customs Act, 1969 after securing the differential amount of duty and taxes in the shape of Pay Order / Bank Guarantee as the case may be, by the Director General Valuation, without fail.
- 3) ***Needless to observe that any wilful disobedience and defiance of these directions shall entail initiation of contempt of court proceedings against such delinquent officer(s).***

It is clear from the above that any violation of the said judgment may entail contempt proceedings against the concerned Officers / Collector. The present cases squarely fall within such ratio of the Judgment as above and a case of contempt is prima facie made out; however, as a gesture and in view of the above undertakings, we for the present purposes are not initiating any such action notwithstanding that

admittedly, in most of the cases defiance of the dicta laid down in ***Danish Jehangir*** supra has been made and while disposing of these Petitions we expect that the Collectorates working under the above mentioned two Chief Collectors would ensure that this conduct is not repeated at their end, failing which no further indulgence would be shown and proceedings under the contempt laws would be initiated without any exception. With these observations since in all cases consignments have been released by the department under Section 81 of the Customs Act, 1969, the Petitions have served their purpose and are accordingly disposed of.

Let copy of this order be issued to both; Chief Collector of Customs Enforcement (South) Karachi and Chief Collector of Customs Appraisement (South) Karachi who shall circulate this order amongst the concerned Collectorates for compliance. It shall also be issued to Chairman FBR, Islamabad and Member, Customs (Operations), FBR, Islamabad for information and necessary action on their part. Office is directed to place copy of this order in above connected Petitions.

All listed petitions stand disposed of in these terms.

**J U D G E**

**J U D G E**

Arshad/