

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P. No. *D - 4432* of 2018

<b>Date</b>	<b>Order with signature of Judge</b>
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**Present:**

**Mr. Justice Aqeel Ahmed Abbasi**  
**Mr. Justice Arshad Hussain Khan.**

1. *For orders as to non-prosecution of Misc. No. 25320/2018.*
2. *For hearing of Misc. No. 19870/2018.*
3. *For hearing of main case.*

**Dated: 27.03.2019**

Mr. Asad Raza Khan, advocate for petitioner.  
Mr. Ghulam Murtaza, advocate for respondent  
Ms. Lubna Perwez, Deputy Attorney General.

**ORDER**

1. Through instant petition, petitioner has impugned Show Cause Notice dated 20.04.2018 issued by respondent No.3 and the seizure of the consignment, imported by the petitioner by filing GD KAPE-HC-128551-19-01-2018, which stayed in the warehouse beyond the period as specified in Section 168 of the Customs Act, 1969, and has prayed that respondents maybe directed to release the consignment as per assessment of duty and taxes on the basis of Valuation Ruling No.1007 of 2017 read with Order-in-Revision No.301 of 2017.

2. Notices of instant petition were issued to respondents, who have filed comments, wherein, it has been stated that petitioner has filed instant petition by concealing material facts, whereas, it is a case of mis-declaration of value of imported goods to evade duty and taxes. It has been further stated in the comments that the value of the imported “artificial jewelry” has been grossly under valued, therefore, such consignment is liable to confiscation and petitioner is liable to be prosecuted for mis-declaration in accordance with law.

3. On 08.10.2018, when the matter was taken up for hearing, learned counsel for petitioner, under instructions, submitted that petitioner will be satisfied and will not press instant petition, provided respondents may be directed to allow provisional release of consignment, subject to deposit of post-dated cheques of disputed amount before the concerned Collectorate, however, such request of the petitioner for provisional release in the aforesaid terms was opposed by the learned counsel for respondents duly assisted by Senior Preventive Officer {Customs}, on the grounds that in terms of Section 83-B of the Customs Act, 1969, provisional release of consignment can be allowed, subject to payment of duty and taxes and by furnishing pay order/bank guarantee of the amount of fine/penalty, to be imposed in case of mis-declaration and detection of offence. In view of such objection by the learned counsel for respondents, learned counsel for petitioner requested for time to seek instructions.

4. Today, learned counsel for petitioner, under instructions, submits that due to financial crunch, petitioner is not in a position to deposit the disputed amount of duty and taxes or to secure the fine/penalty by furnishing pay order/bank guarantee, whereas, according to learned counsel, respondents through imputed Notices, have proposed to impose exorbitant amount of duty and taxes along with fine/penalty to be paid by the petitioner.

5. In view of hereinabove facts and circumstances of the case and for the reasons that adjudication proceedings have already been started, whereas, Show Cause Notice has been issued to the petitioner, who is willing to contest adjudication proceedings, we would disposed of instant petition with the directions to

petitioner to submit response to Show Cause Notice issued by the respondent by raising all such factual and legal grounds, as agitated through instant petition, whereas, respondents are directed to conclude the adjudication proceedings strictly in accordance with law, preferably, within a period of four weeks' from the date of this Court, however, after providing complete opportunity of being heard to the petitioner. In the meanwhile, request of the petitioner for provisional release of the consignment, subject to securing the disputed amount of duty and taxes in the shape of pay order/bank guarantee, and furnishing the post-dated cheques of the proposed amount of fine/penalty, if any, before the concerned Collectorate, shall also be considered in accordance with law, whereas, request of the petitioner for issuance of Delay and Detention Certificate shall also be examined sympathetically. If the adjudicating authority decides the case in favour of the petitioner and the consignment of the petitioner is not allowed provisional release during adjudication proceedings in the aforesaid terms, the said consignment shall be immediately release, whereas, in case of any adverse order passed by the adjudicating authority against the petitioner, the pay order/bank guarantee and the post-dated cheques, *if furnished by the petitioner for provisional release of the consignment*, shall not be encashed for a period of fifteen (15) days of receipt of such order by the petitioner to enable the petitioner to seek further remedy in accordance with law.

Petition stands disposed of in the above terms along with listed applications.

**J U D G E**  
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A.S.