

ORDER SHEET

THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-4168 of 2021

Date Order with Signature(s) of Judge(s)

1. For orders on office objection No.18
2. For hearing of Misc. No.17084/2021
3. For hearing of main case.

02.07.2021

Mr. Ghulam Nabi Shar, Advocate for the Petitioner.
Mr. Kafeel Ahmed Abbasi, DAG along with Mr. Tariq Aziz,
Representative of Collectorate Customs Department.

Mr. Tariq Aziz has effected appearance on behalf of Port Qasim
Collectorate and needs time to file comments.

On the other hand, petitioner's Counsel submits that assessment
value of a consignment imported by the Petitioner has been enhanced
without assigning any reason and when it was contested, a letter dated
19.06.2021 has been addressed by an Assistant Collector of the
respondent Collectorate stating therein that values under the same period
have been found to be much higher of other importers, hence, petitioners
declared value cannot be accepted. Petitioner's Counsel submits that for
the time being petitioner is willing to secure the differential amount of
duties and taxes with the Nazir of this Court whereas, the respondents
Collectorate be directed to pass a reasoned assessment order in terms of
Section 80 of the Customs Act, 1969, after affording an opportunity of
hearing.

Such request of the petitioner's Counsel has been vehemently
opposed by Mr. Tariq Aziz who submits that this is not a case wherein any
provisional release can be granted.

We have heard the petitioner's Counsel as well as departmental
representatives and are not convinced with the arguments of Mr. Tariq
Aziz as the law is settled that once an importer disputes any assessment;
then seeking provisional release of the consignment in dispute is a matter

of right in terms of Section 81 of the Customs Act, 1969 and not as a concession or discretion on the part of the department. Reliance in this regard may be placed on the cases of **Rehan Umar Vs. Collector of Customs Karachi and 2 others (2006 PTD 909)** **Danish Jehangir v Federation of Pakistan (2016 PTD 702)**.

In view of the above, let the differential amount of duty and taxes be deposited with the Nazir of this Court by way of Pay Order(s)/Bank Guarantee in respect of the consignments covered by this petition and once the amount is deposited, Nazir shall issue appropriate certificate(s) to that effect which shall be presented before the concerned Collectorate who shall release the consignment(s) forthwith. The amount so deposited by the Petitioners shall be invested in any government profitable instruments. Fee of the Nazir is settled at Rs.5000/- per certificate.

Whereas, the Respondent / Collectorate after providing an opportunity of hearing to the Petitioner, shall pass a reasoned assessment order in terms of Section 80 of the Customs Act, 1969. If the petitioner is still aggrieved, appropriate remedy of appeal under the Customs Act, 1969 may be availed by the Petitioner.

With these observations, the petition stands disposed of, along with pending application(s).

JUDGE

JUDGE

*Faizan/PA**