

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P.NO.D-5298 of 2015

Date	Order with signature of Judge
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Hearing / priority case

1. For hearing of CMA 22346/15 (stay)
2. For hearing of main case.

15-10-2015

Ms. Dilkhurram Shaheen, Advocate for the petitioner

Mr.Ainuddin, DAG

Mr. Kashif Nazeer, Advocate for Respondent No.2

Through instant petition, the petitioner has impugned Detention Memo dated 18.8.2015, whereby, vehicle in question has been detained by respondent No.2 for want of certain documents.

Counsel for the petitioner contends that the vehicle in question was purchased by the petitioner on an open letter from one Akbar Ali, in whose name the same is registered with the Excise department and is being plying on the road by the petitioner under such authority. Counsel has contended that the detention for want of production of import and other documents is unlawful, whereas, the petitioner is a subsequent buyer in good faith; therefore, the detention of Vehicle and demand of import documents is not justified.

Conversely, Mr. Kashif Nazeer, advocate appearing on behalf of respondent No.2, contends that instant petition was filed on 2.9.2015, whereby, the Detention Notice dated 18.8.2015 has been impugned, whereas, the same was not responded nor any documents in support of lawful possession/import of the vehicle were furnished, whereafter, an FIR dated 30.9.2015 has been

registered and a Show Cause Notice dated 5.10.2015 has been issued. Therefore, instant petition has been become infructuous and the petitioner may be directed to attend the Adjudication proceedings, who may be directed to decide the matter expeditiously and in accordance with law.

Though the Counsel for the petitioner was confronted with this factual development after filing of the instant petition, however, she could not controvert such position, and instead vehemently insisted that instant petition be decided on merits and also referred to various orders/Judgments in support of her contention.

Be that as it may, since, owing to non responsive attitude of the petitioner with regard to the Detention Memo, and failure to furnish requisite documents a proper Show Cause Notice as warranted under the Custom Act 1969 has been issued, we do not deem it appropriate to exercise the discretionary relief vested under Article 199 of the Constitution, in the given facts and circumstances of the instant case. Accordingly, we while disposing of this petition direct the petitioner to respond to the Show Cause Notice dated 5.10.2015, whereafter, Adjudicating Authority shall pass appropriate order in accordance with law and after providing an opportunity of being heard to the petitioner within a period of 30 days hereof.

Petition stands disposed of in the above terms.

JUDGE

JUDGE

