

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**C.P.NO.D-1957 OF 2014**

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Date	Order with signature of Judge
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**21-10-2015**

Mr. Aqeel Ahmed, Advocate for the petitioner  
Mr.Asim Mansoor, DAG  
Ms.Afsheen Aman, Advocate for Respondent No.2  
Mr.Haroon, holding brief for Mr. Ghulam Hyder Sheikh, Advocate for  
Respondent No.3  
Mr. Ilyas Ahsam Appraising Officer, Legal.  
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Through instant petition, the petitioner has challenged the application of Valuation Ruling No. 502 /2012 on the goods imported by the petitioner, on the ground that the Valuation Ruling in question was issued in the year 2012, whereas, the consignment of the petitioner on which such Ruling has been made applicable had arrived in 2014 and therefore, in view of Judgment of this Court in the Case of *Sadia Jabbar Vs Federation of Pakistan PTCL 2014 CL 537*, the same cannot be applied for the goods in question. In the alternative, Counsel further submits that even otherwise the Ruling is in respect of Acrylic Yarn, falling under HS Code 5509.3200, whereas, the petitioner's consignment is of Acrylic Yarn (single), appropriately specifiable under HS Code 5509.6900 which classification has been accepted by the respondent department, therefore, ruling in question cannot be made basis for assessment of the petitioner's consignment.

On the other hand, Counsel for respondents as well as departmental representative contends that since the ruling in question has been issued for all sorts of Acrylic Yarn without any specification, whereas, the petitioner has not sought any review of the Ruling in question since 2012, therefore, instant petition does not merits any consideration and is liable to be dismissed.

We have heard both the Counsel and perused the record, it appears that admittedly the assessment of the petitioner's consignment has been made on the basis of Valuation Ruling which was issued in 2012, whereas, the consignment of the petitioner had arrived in 2014 i.e. after almost two years of issuance of such Valuation Ruling. Though we have been informed that the Ruling in question still subsists, however, while confronted, the respondent's Counsel could not satisfactorily respond, as to why the same has not been revised after passage of 90 days period, as observed by a Division Bench of this Court in the case of *Sadia Jabbar supra*. Moreover perusal of the Valuation Ruling also reflects that though

it has been issued in respect of Acrylic Yarn, however, HS Code 5509.3200 is also mentioned in the said ruling, which leads credence to the fact that the same is only applicable on goods falling in HS Code 5509.3200, which covers Yarn containing 85% or more by weight of Acrylic or Modacrylic Staple Fiber, Multiple (folded) or cabled Yarn, whereas, the petitioner's consignment is of 100% Acrylic (Single) Yarn, which in our opinion more appropriately falls under HS Code 5509.3100, for which this Ruling does not cater for.

Be that as it may, in the given facts and circumstances, prima facie, it appears that the Ruling in question besides being two years old, is also specific insofar as applicability is concerned, as it is for a specific HS Code i.e. 5509.3200, hence; cannot be made applicable on the entire heading of 5509. In such circumstances, we are of the view that Ruling in question cannot be applied to the consignment of the petitioner in question, and, therefore we while allowing instant petition, would direct the respondents to finalize the assessment of the petitioner's consignment in terms of Section 25 of the Customs Act, 1969, strictly in accordance with law, after providing an opportunity of being heard to the petitioner and pass a reasoned and speaking assessment order.

Petition stands disposed of in the above terms.

JUDGE

JUDGE