

ORDER SHEET

HIGH COURT OF SINDH AT KARACHI

C.P. No.D-8181 of 2019 and 162 of 2020

Date

Order with signature of Judge

30.11.2022.

Mr. Ghulam Hyder Sheikh, Advocate for the petitioner in C.P. No.D-8181 of 2019.

Ms. Sofia Saeed Shah, Advocate for the petitioner in C.P. No.D-162 of 2020.

Mr. Khalid Rajpar, Advocate for the respondents/department along with Mr. Muhammad Farooq Khan and Dr. Muhammad Zohaib, Deputy Collector Customs.

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Since facts of both the petitions are common, the same are being disposed of through this common judgment. The instant petitions have been filed on the ground that the demand notices issued to the petitioners, creating certain demands are illegal and uncalled for.

It is the contention of the learned counsel for the petitioners that the impugned demands have been created without adopting the adjudicating process, issuing a proper show cause notice and giving opportunity of hearing to the petitioners. Learned counsel for the respondents/department when confronted with this situation/position could not controvert the same. It is evident from the record that impugned demand notices have been created without fulfilling the legal and codal formalities with regard to adopting adjudicating process, issuing show cause notice and granting opportunity of hearing to the petitioners before creating impugned demands, which are mandatory requirements of the law. Since in the instant matters, it has come on record, which has not been controverted by the learned counsel for the respondents that the impugned demands have been created without fulfilling the said legal formalities, in our view, the same could not be termed as legal and lawful

demands. We, therefore, under the circumstances vacate the impugned demand notices issued by the department. However the department would be at liberty to proceed against the petitioners in accordance with law if they have some material in their possession against the petitioners subject to limitation and subject to fulfillment of legal and codal formalities provided by the law in this regard.

Both these petitions stand disposed of in the above terms along with the listed applications.

JUDGE

JUDGE