

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D- 699 of 2023

Date Order with signature of Judge

FRESH CASE.

- 1) For orders on Misc. No. 3169/2023. (urgent/app)
- 2) For orders on Misc. No. 3170/2023. (Exp/app)
- 3) For orders on Misc. No. 3171/2023. (Stay/app)
- 4) For hearing of main case.

02.02.2023.

Mr. Muhammad Adeel Awan, Advocate for Petitioner.

Through this petition, the Petitioner has sought the following relief(s):-

“(i) Declare that the Impugned Clause (g) of Paragraph 2 of RD imposing SRO No. 966(1)/2022 dated 30.06.2022 is discriminatory, illegal, perverse and that limiting the scope of raw materials exempted from regulatory duty to the products having diameter of 75mm and above is against Articles 18 and 25 of the Constitution, 1973;

(ii) Direct the respondents No. 1 to 4 to decide/finalize the representations / applications filed by the Petitioner for eradication of such discriminatory imposition of RD on the same raw material within a reasonable time period as the delay, neglect and inaction has been causing severe financial and manufacturing losses to Petitioner;

(iii) Restrain the respondents from taking any action pursuant to the impugned notification, bearing SRO No. 966(1)/2022 dated 30.06.2022, including but not limited to the levying, imposition, assessments and/or recovery of impugned 'regulatory duty', vide Serial No. 323 of the Impugned Notification, on Petitioner' imports of raw materials for manufacturing purposes;

(iv) Direct the respondent No. 5 Collectorates to release the consignments of the Petitioner, both already imported as well as those to be imported in future without demanding/collecting the impugned 'regulatory duty' under SRO, bearing No. 966(1)/2022 dated 30.06.2022;

(v) Meanwhile the pendency of the captioned petition, this Hon'ble Court may be pleased to grant interim orders for release of the import consignments of Petitioner subject to securing the disputed amounts of 'regulatory duty' before the Nazir of this Hon'ble Court in the same manner as this Hon'ble Court has already passed the interim orders dated 04.11.2021 and 25.11.2021 in identical petition, bearing No. D-5750 of 2021 & Others;

(vi) grant such other relief as may be deemed necessary, just and equitable in the circumstances of the case to the Petitioners.”

We have confronted the Petitioner's Counsel as to how and in what manner we can direct the provisional release of the consignment in question as neither the vires of any law is under challenge nor an interpretation of the Notification is involved through which some regulatory duty has been levied and Counsel has not been able to respond satisfactorily except that Petitioner's representation is pending seeking exemption from the levy of regulatory duty on the goods in question. We are afraid pendency of mere representation could not be accepted as a case for any provisional release of any consignment, and therefore, this Petition being misconceived was dismissed in *limine* by means of a short order in the earlier part of the day and these are the reasons thereof.

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