

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D- 7647 of 2022 &
C.P No.D- 7648 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGE

Priority.

C.P No.D- 7647 of 2022

1. For hearing of Misc. No. 32438/22 (stay)
2. For hearing of main case.

C.P No.D- 7648 of 2022

1. For hearing of Misc. No. 32447/22 (stay)
 2. For hearing of main case.
-

24.02.2023.

Mr. Aqeel Ahmed Khan, Advocate for Petitioners in both Petitions.
Mr. Pervaiz Ahmed Memon, Advocate for respondents.
Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General

It appears that through these Petitions, the Petitioners had challenged the assessment proceedings and application of Valuation Ruling No. 1534/2021 dated 27.05.2021 on the goods imported by them on the ground that said Ruling does not apply and is not relevant. This argument was based on some earlier proceedings before the department, and which according to the Petitioners, were adjudicated in their favour; and therefore, Valuation Ruling could no more be applied. By way of an interim order dated 20.12.2022, the goods were directed to be released after deposit of the disputed amount with the Nazir of this Court.

Today, we have confronted the Petitioners' Counsel as to maintainability of these Petitions and any further adjudication of the matter, as apparently the issue is of assessment and for which departmental remedy has to be availed; coupled with the fact that the earlier order of Adjudication is not a final order to be applied in all matters, whereas, some appeal is also pending against it; and Counsel has not been able to satisfactorily respond, except that an illegality has been committed; hence, this petition is maintainable and must be decided on merits as well.

With respect, we are not inclined to agree with the contention of the learned Counsel for the Petitioners. Firstly, the order of the Adjudication authority is presently not a final order and is subject to Appeal which is yet to be decided. Therefore, at the present stage, it would be very unfair if the department is restrained from reiterating its earlier view, as it can also affect the pending Appeal. Notwithstanding, even if such an order had

attained finality, it is not in and of itself a cause to exercise our discretion under Article 199 of the Constitution. It is well-settled that where a Court or a tribunal has jurisdiction and it determines that question, it cannot be said that it acted illegally or with material irregularity merely because it came to an erroneous decision on a question of fact or even of law and it is wholly wrong to consider that the above Constitutional provision was designed to empower the High Court to interfere with the decision of a Court or tribunal of inferior jurisdiction merely because in its opinion the decision is wrong¹. The proposition is indisputable that when there is jurisdiction to decide a particular matter then there is jurisdiction to decide it rightly or wrongly and the fact that the decision is incorrect does not render the decision without jurisdiction² so as to make it amenable to writ jurisdiction under Article 199 of the Constitution as a matter of routine.

Though in view of the above, these petitions ought to have been dismissed as incompetent; however, since they have been entertained and interim order(s) have been passed by this Court; for the present purposes, they have served their purpose; hence, are disposed of with the observations that the Respondents shall pass an appropriate order of adjudication / assessment, as the case may be, after providing an opportunity of hearing in accordance with law, and any of the parties aggrieved with such order(s) may seek appropriate remedy as may be available in law. The fate of the amount lying with the Nazir of this Court pursuant to ad-interim orders of the Court, shall be subject to such order(s) as above.

Office to place copy of this order in the connected petition.

Judge

Judge

Ayaz

¹ Muhammad Hussain Munir v Sikandar (PLD 1974 SC 139)

² Kaikaus J; in Badarul Haque Khan v Election Tribunal Dacca (PLD 1963 SC 704)