

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-5492 / 2021 a/w
C. P. NO. D-5537 & 5544 / 2021

Date

Order with signature of Judge

PRIORITY.

- 1) For hearing of Misc. No. 23006/2021.
- 2) For hearing of main case.

14.11.2023.

Mr. Ahmed Ali Hussain, Advocate for Petitioner.
Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General.
Mr. Khalid Mehmood Rajpar, Advocate for Respondent.
Mr. Javed Hussain holding brie for
Mrs. Masooda Siraj, Advocate for Respondent.
Mr. Tahir Khalil holding brie for
Mr. Muhammad Khalil Dogar, Advocate for Respondent.

Through these Petitions, the Petitioners have impugned respective Notices issued under Section 26 of the Customs Act, 1969 ("Act") by Respondent No. 7 on the ground that they are illegal and ultra vires; hence, liable to be quashed.

Learned Counsel for the Petitioners has argued that the impugned Notices appear to be an attempt of making a roving or fishing inquiry which is impermissible in law and is in violation of the dicta laid down in the case of *B.R. Herman*¹ and *Umer Farooq*². According to him, the Respondents intend to collect data spreading over a period of five years without any specific details, and therefore, all these Petitions be allowed by setting aside the impugned Notices.

On the other hand, Respondent's Counsel has supported the impugned Notices and has prayed for dismissal of instant Petitions.

We have heard all the learned Counsel and perused the record. Though there cannot be any cavil to the proposition of law settled in the above cited cases, that no roving or fishing inquiry can be permitted by way of Notices issued under Section 26 of the Act; however, insofar as the Notices impugned herein are

¹ Assistant Director, Intelligence & Investigation, V/s B.R. Herman & others (PLD 1992 SC 485)

² Umer Farooq V/s Federation of Pakistan and 5 others (2014 PTD 894).

concerned, we do not see that as to how they amount to a roving or fishing inquiry. In the impugned Notices the Petitioners have been confronted with a very valid reason that the exports made by them are in distortion and not in conformity when compared with the imports made by them in the same period. It may be of relevance to observe that the Petitioners enjoy certain exemptions from the levy of duty and taxes for being located in Export Processing Zones, and therefore, the Respondent No. 7 has issued the impugned Notices for seeking reconciliation. It has been further directed to provide data and copies of the Goods declaration of imports as well as exports and their quota reconciliation.

In view of such position, these Notices appear to be in line with the provisions of Section 26 *ibid* and do not amount to a roving or fishing inquiry. Moreover, if the argument of the Petitioner's Counsel is accepted in totality, without looking into the contents of the impugned Notices, then the provision of Section 26 of the Act would become redundant which cannot be attributed to the legislature.

In view of hereinabove facts and circumstances no case for indulgence is made out to exercise any discretion under Article 199 of the Constitution; hence, by means of a short order in the earlier part of the day, all these Petitions were dismissed and these are the reasons thereof.

J U D G E

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Arshad/