

IN THE HIGH COURT OF SINDH AT KARACHI  
**C.P.No.D-1705 OF 2024**

---

Date

Order with Signature of Judge

---

PRESENT:

*MR. JUSTICE AQEEL AHMED ABBASI, C.J.*  
*MR. JUSTICE ABDUL MOBEEN LAKHO.*

***China Textile Curtains & Blanket Industry  
& another .....Petitioners.***

***Versus***

***Federation of Pakistan & others.....Respondents***

For hearing of CMA No.10072/2024

**07-06-2024**

Mr.Javed Farooqui, Advocate for the Petitioners.

Mr.Khaleeq Ahmed, D.A.G.

Mr.Muhammad Afzal, Advocate holding brief for Mr.Khalid Rajpar,  
Advocate for Respondent No.2.

----

**O R D E R**

Learned counsel for the Petitioners submits that on account of mis-statement on behalf of learned counsel for the Customs Department on 30.04.2024 i.e. alleged registration of FIR and initiation of adjudication proceedings at Peshawar, instant petition was disposed of with the directions to the petitioners to seek remedy before appropriate forum in accordance with law, whereas, the subject consignments are still lying at port and not part of subject matter of any FIR or adjudication proceedings at Peshawar, which pertains to some earlier consignments in the name of Premier Textile Blanket Industry (Consignee) and the petitioners i.e. China Textile Curtains & Blanket Industry, have no nexus with such consignments or FIR/adjudication proceedings .

2. According to learned counsel for the petitioners, even in the reply submitted by the Customs authorities on the review application filed in the instant matter, there is no mentioning of the name of petitioners, nor the subject consignments of instant petition are subject matter of FIR/adjudication proceedings at Peshawar, for the reasons that unless GD is filed and these consignments after release by customs authorities reach at Dry Port Peshawar, no offence whatsoever can be made out under the Customs Act, 1969. Learned counsel for the petitioners further submits that from the perusal of the comments filed on behalf of the respondents it further transpires that the basis of registration of FIR in respect of earlier consignments at Dry Port Peshawar is exemption from payment of duties and taxes under Export Facilitation Scheme by exporter was claimed without any legal basis by the importer i.e. Premium Textile Blanket Industry, whereas, in the instant case, the petitioners have not claimed any exemption from payment of duties and taxes and have made a request for the amendment i.e. change of name of consignee in respect of subject frustrated consignments in terms of Section 45(2) read with Section 138 of the Customs Act, 1969, therefore, there is no possibility of any misuse or violation of aforesaid scheme. Learned counsel for the petitioners submits that petitioner have filled two applications each dated 29.03.2024 before Collector Customs, MCC-Appraisement (West) for seeking amendment in the IGM under Section 45(2) of the Customs Act, 1969, within stipulated period of time, after compliance with all codal formalities, however, no order has been passed by the Collector Customs thereon, therefore, instant petition was filed. Per learned counsel, all the original documents with regard to import of 28 consignments, including Bill of Lading, commercial invoice, certificate of origin, packing list, etc. are in the name and possession of the petitioners, which will be produced before the Customs Authorities, therefore, requests that Collector Customs, MCC Appraisement (East) may be directed to allow

the petitioners' application for the change of name of consignee in the IGM in respect of 28 consignments, subject matter of instant petition, in terms of Section 45(2) read with Section 138 of the Customs Act, 1969.

3. Learned counsel for petitioners has further argued that under similar circumstances in respect of 09 consignments of the same petitioners, while seeking amendment in the IGM in similar terms such request has been allowed, therefore, withholding such amendment in the IGM for change of name of consignee in respect of subject 28 consignments is otherwise illegal and based on mala fide. Per learned counsel, similar controversy agitated through instant petition has already been decided by Division Bench of this Court in the case of **BELAL MOSTAFA SADEQI LTD. V. DEPUTY COLLECTOR OF CUSTOMS AND 4 OTHERS** [2015 PTD 761] as well as in the case of *C.P.No.D-4612/2018 [Re: M/s. Saiban International v. The Federation of Pakistan & others]* vide judgment dated 07.08.2018, copy of said judgment has been placed on record.

4. After hearing the learned counsel for the parties and from perusal of the record and the provisions of Section 45 read with Section 138 of the Customs Act, 1969, it appears that contentions of the learned counsel for the petitioner appears to be correct, whereas, petitioner has made out a case seeking review of order dated 30.04.2024, which appears to have been passed on account of incorrect factual position intimated by the learned counsel for Customs Department. Admittedly, in the instant case, subject consignment is lying at Port, whereas, the request of petitioner seeking amendment in the IGM in terms of Section 45(2) read with Section 138 of the Customs Act, 1969, which has been decided by the customs authorities without assigning any reason. It has also come on record that subject consignment in respect of GD could not be filed on account of inaction on the part of the customs authorities, who

have not allowed change of name of the consignee in the IGM inspite of the fact that all the relevant documents, including original bill of lading, commercial invoice, certificate of origin, packing list, etc. available with the petitioner and there seems no legal impediment to allow the amendment in IGM while changing the name and address of the consignee in terms of Section 45(2) read with Section 138 of the Customs Act, 1969. Prima facie, the case of the petitioner is covered by the aforesaid judgment of this Court. Accordingly, review application bearing CMA No.10072/2024 is allowed and consequently petition is disposed of with direction to the respondents to decide the application of the petitioner seeking amendment in the IGM in the aforesaid terms and submit compliance within a period of two weeks from the date of receipt of this order, whereafter, application shall be furnished to this Court through MIT within two weeks.

5. At this juncture, learned counsel for the petitioner submits that respondents may also be directed to issue delay detention certificate as consignment is not being allowed by the customs authorities. Order accordingly.

6. Instant Constitution Petition stands disposed of in above terms alongwith listed application.

CHIEF JUSTICE

JUDGE

Nasir/  
FarhanPS