

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-1782 of 2020

Muhammad Hashim.....v/s.....Federation of Pakistan & others

Date

Order with Signature of Judge

PRESENT:

MR.JUSTICE ADNAN IQBAL CHAUDHRY

MR. JUSTICE ABDUL MOBEEN LAKHO

- 1.For hearing of Misc.No.1974/2022
- 2.For hearing of Misc.No.9390/2020
- 3.For hearing of main case.

04-11-2024.

Mr.Ahmed Shakir, Advocate for the Petitioner.

Mr.Khaleeq Ahmed, D.A.G.

Mr.Abdullah Bhatti, Advocate for Respondent (Trade Development Authority).

ADNAN IQBAL CHAUDHRY, J: The prayer in the petition is to declare that the Import and Export (Control) Act, 1950 stood expired after 15 years of its enactment and therefore, all proceedings taken by the Special Court created thereunder are of no legal effect. The petitioner of course is facing proceedings before such Special Court, hence the petition.

2. Learned counsel for the petitioner submits that on the enactment of the Import and Export (Control) Act, 1950, section 1(3) thereof stipulated that the Act shall remain in force for 03 years; that though section1(3) was amended from time to time to extend the period of the Act, one of such amendments was made at a time when the period of Act had already expired. In that regard, learned counsel for the petitioner draws attention to section 2 of the Import and Export (Control) (Amendment) Ordinance, 1962, whereby the period of the Act was extended/amended from 12 years to 15 years. He submits that by such time the previous period of 12 years had already expired and therefore, the amendment was to no legal effect.

3. The submission of learned counsel for the petitioner is entirely misconceived as the Ordinance, 1962 had been promulgated with retrospective effect and section 2 thereof had gone on to stipulate that

period of 15 years “shall be substituted and shall be deemed to have always been so substituted”. Therefore, by legal fiction the expired period had been covered. Eventually, section 1(3) of the Act had been omitted by the Import and Export (Control) (Amendment) Act, 1975 so as to give continuity to the Act until repealed. Therefore, the petition is misconceived and is dismissed.

Judge

Judge

Nasir