

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. Nos.D-5487 to 5492 of 2024

Date

Order with signature of Judge

PRIORITY CASE:

1. For hearing of CMA No.24171/2024.
2. For hearing of main case.

Dated; 12th November 2024

Mr. Imran Iqbal Khan, Advocate for Petitioners in all Petitions.

Mr. Kashif Nazeer, Assistant Attorney General.

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Ms. Masooda Siraj, Advocate has shown appearance on behalf of the Respondent No.2 in all Petitions. Similarly, Mr. Abdul Qadir Syed, Advocate has filed vakalatnama(s) on behalf of the Respondent No.3 in all Petitions, which are taken on record.

When confronted as to the order passed by this Court on 05.11.2024, learned counsel for the Respondent No.2 submits that she has called the concerned official as directed in the first round of hearing, but at 11:25 A.M. nobody has turned up.

On the other hand, learned counsel for the Petitioner submits that the controversy as raised in these Petitions has already been decided by this Court in number of cases, including C.P. No.D-6271 of 2023 [*Re: Anwar Ali v. Federation of Pakistan and 2 others*], wherein on 07.03.2024 under similar facts and circumstances of the case, the said petition was allowed. It is the case of the petitioner that Import General Manifest (“IGM”) has been filed by the Respondent No.3 in the name of the dealer of

car in Pakistan, whereas despite the request for amendment made by the Respondent No.3 in favour of the Petitioners / passenger, Respondent department has refused the amendment vide Communication dated 18.10.2024. On perusal of the said Communication, it reflects that no reasons of whatsoever nature have been provided, nor earlier order(s) passed by this Court as relied upon by the Petitioners Counsel in the earlier petitions has been dealt with, or even distinguished. Such conduct on the part of the concerned Respondents cannot be appreciated. In the cited case, following observations are relevant for the present purposes, which read as follows: -

“Heard learned counsel for the parties and perused the record. It appears that the petitioner has imported a used vehicle vide Bill of Lading No.JP/10943/43468-8 which shows the Petitioner as the consignee, whereas, Respondent No.3 being the concerned shipping agent at Karachi filed IGM of the Vessel and inadvertently mentioned consignee's name as "M/s Overseas Transit Agency (Pvt.) Ltd." i.e. Respondent No.3 itself. Admittedly the bill of lading shows the name of the petitioner, whereas, Respondent No.3 has also filed an amendment request which has been declined by the department vide impugned letter.

On perusal of the record it appears that it is a case of a bonafide mistake on the part of Respondent No.3 / shipping agent and is fully covered under Section 45(2) of the Act. The respondent-department has erred in ascertaining correct facts as well as law, while regretting the amendment and we are unable to accept the plea of that it is not a case of a bonafide mistake. The second objection that a Company cannot import a used Vehicle but only a Non-Resident individual is also misconceived as Respondent No.3 has never claimed ownership of the Vehicle and has instead requested an amendment. Lastly, the amendment is based on the basis of bill of lading which still shows the Petitioner as the owner / importer, whereas, there is no other claimant of the same.

In view of hereinabove facts and circumstances of the case, the impugned letter dated 08.12.2023 is hereby set aside, whereas, the concerned Collectorate / department is directed to accept and process the amendment request of Respondent No.3 immediately, and thereafter the vehicle be released to the petitioner in accordance with law upon fulfillment of all requisite formalities.

The petition is allowed in the above terms with pending application(s).”

In view of the above, the objection raised by the Respondent department cannot be sustained, as the same is without reasoning and is also against the dicta laid down by this Court in above cited case. Accordingly, the impugned letter(s), whereby request(s) for amendment(s) has been declined, are hereby set-aside, whereas the concerned Collectorate / department is directed to accept and process the amendment request of Respondent No.3 immediately and, thereafter, the vehicle(s) be released to the Petitioner(s) in accordance with law upon fulfillment of all requisite formalities.

These petitions are allowed in the above terms with pending application(s).

JUDGE

JUDGE

Farhan/PS
