

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
C. P No. D- 2122 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

**Priority.**

1. For hearing of Misc. No. 9678/24. (stay)
2. For hearing of main case.

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**13.05.2024.**

Mr. Muhammad Saad Shafiq Siddiqui, Advocate for Petitioner.  
Mr. Kashif Nazeer, Assistant Attorney General.

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Mr. Sardar Zafar Hussain, Advocate undertakes to file Vakalatnama on behalf of Respondent(s).

On the other hand, Petitioner's Counsel submits that the Customs Appellate Tribunal vide Judgment dated 01.02.2024 passed in **New Customs Appeal No. K-1660/2023 (Old Customs Appeal No. K-2151/2022) (M/s. Shamim Agencies & others Vs. The Director General (Customs Valuation), Karachi & others)** has been pleased to set-aside the Valuation Ruling No. 1681 of 2022 dated 22.07.2022 and Order in Revision No.95 of 2022 dated 07.11.2022; but still the assessment of the Petitioner's goods is being made on the bases of same Valuation Ruling on the pretext that some Reference Application has been filed by the department, wherein judgment of the Tribunal has been suspended. While confronted learned Counsel for the department has placed reliance on judgment dated 31.01.2024 passed by this Court in **C.P No. D-4972 of 2023 & others (Shamim Ahmed & another Vs. The Federation of Pakistan & others)** and submits that in view of the said judgment, no interim relief can be granted to the Petitioner. However; in our considered view, the facts which were under discussion in the said judgment relate to only two situations i.e. either a Revision Application under Section 25D or further Appeals under Section 194A of the Customs Act, 1969 were pending, and in that cases interim relief was refused by following the dicta laid down by the Supreme Court in the case of ***Collector of Customs***

***Lahore vs. Wasim Radio Traders, Lahore (2023 SCMR 1716)***, whereas, in the instant matter, the Petitioner has been successful before the Tribunal and now it is the department, which is contesting the said judgment by way of a Reference Application. Moreover, mere suspension of Tribunal's judgment does not amount to setting aside the same. Therefore, this being an exceptional case, requires that Petitioner's consignment ought to be released by securing the differential amount of duties and taxes with the Nazir of this Court.

In the circumstances, by way of an interim arrangement, let the disputed amount of duty and taxes in respect of consignments covered by GD Nos. KAPS-IB-125928-09-04-2024, KAPS-IB-125932-02-05-2024, KAPS-IB-113752-03-04-2024, KAPE-IB-68381-25-04-2024 & KAPW-IB-152410-03-04-2024 be secured before the Nazir of this Court by way of Pay Order / Bank Guarantee in respect of the consignment(s) covered by this Petition. Once the amount is secured as above, Nazir shall issue appropriate certificate(s) in favour of the Petitioner, which shall be presented before the concerned Collectorate / Department, who shall release the consignment(s) forthwith. If the amount is secured by way of Pay Order, Nazir shall invest the same in some profit bearing instrument as per rules. Nazir's fee is settled at Rs. 10,000/- for each Certificate.

To come up on **14.05.2024**.

Judge

Judge