

**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P No.D-6507 of 2019**

Present: **Mr. Justice Muhammad Junaid Ghaffar**  
**Mr. Justice Agha Faisal**

Petitioner: **M/s. Shaikh Pipe Mills (Pvt.) Ltd.**  
**Through Mr. Imran Iqbal, Advocate.**

Respondent No.1. **Mr. Muhammad Ahmar, Asstt. Attorney**  
**General.**

Respondent No.2. **Mr. Khalid Rajpar, Advocate.**

1. *For hearing of Misc. No. 28871/19.*
2. *For hearing of main case.*

**Date of hearing: 16.10.2020.**

**Date of Judgment: 16.10.2020.**

**J U D G M E N T**

**Muhammad Junaid Ghaffar J.-** Through this Petition, the Petitioner has sought the following reliefs:-

- (i) *Declare that the act of Respondent No.2 against demand of warehouse surcharge and penal surcharge vide No.SI/MISC/71/2010- MFG-BOND/EXPORT dated 08.10.2019 and its subsequent proceedings and non renewal of manufacturing bond license No.PWL-04/2020 is ab-initio, illegal, unreasonable, unlawful and liable to be set aside and quashed/cancelled;*
- (ii) *Suspend the demand notice vide No.SI/MISC/71/2010-MFG-BOND/EXPORT dated 08.10.2019;*
- (iii) *Direct the Respondent No. 2 to issue a proper show cause notice by providing an adequate opportunity of being heard enabling the petitioner to seek remedy under the Customs Act, 1969;*
- (iv) *Direct the Respondent No.2 to revalidate / renew the manufacturing bond license No.PWL-04/2010 and Analysis Cards upto there years i.e. till 31.12.2022 in terms of Rule 346 of SRO.450(I)/2001 dated 18.06.2001;*
- (v) *Direct the Respondents to decide our application under Section 224 of the Customs Act, 1969 and allow extension of time limit for further three years to export the input overstayed goods;*

- (vi) *Restrain the respondents, their all officers working under them or on behalf of them or controlling them from initiating any further coercive action and/or subsequent proceeding against the Petitioner.*
- (vii) *Cost of case may be awarded to the petitioner;*
- (viii) *Any other relief(s) which this Hon'ble Court may deem fit and proper under the circumstances of the case.*

2. Learned Counsel for the Petitioner submits that at the time of renewal of Manufacturing Bonded License, the respondents have issued impugned Notice dated 08.10.2019 and have demanded certain amount in respect of warehousing surcharge and penal surcharge and have also withheld the process of renewal of the license. According to him, such notice of blocking and recovery is not in accordance with law; hence instant petition.

3. On the other hand, Mr. Khalid Rajpar, learned Counsel for the respondent, submits that despite repeated requests comments have not been furnished by the department.

4. We have heard both learned Counsel and perused the record. The Notice dated 08.10.2019 reads as under:-

GOVERNMENT OF PAKISTAN  
MODEL CUSTOMS COLLECTORATE OF EXPORTS  
CUSTOM HOUSE, KARACHI.

C.No.SI/MISC/71/2010-MFG-BOND/EXPORT

Dated October 8<sup>th</sup>, 2019

M/s. Shaikh Pipe Mills,  
F-339, Central Avenue,  
S.I.T.E.  
Karachi.

Subject: **DE-BLOCKING /RENEWAL OF BONDED WARE HOUSE LICENCE NO.04/2019-MFG/EXP.**

Please refer to M/s. Shaikh Pipe Mills representation dated 24.09.2019, 03.10.2019 and 7.10.2019 on the above subject.

2. The Bonded Warehouse license No.04/2019-MFG/EXP of M/s. Shaikh Pipe Mills expired on 30.12.2012. The audit of unit has revealed that 1,324,696 Tons of coils and 113.2088 Tons of Zinc ingots (imported free of duty and taxes under the license) are still lying in the Warehouse. It was also found out that seventeen (17) consignments involving 642,944 Ton of pipes were exported by M/s. Shaikh Pipe Mills after the expiry of validity period of the license.

3. The ware house surcharge and penal surcharge on the abovementioned overstayed goods with respect of Manufacturing Bond

of M/s. Shaikh Pipe Mills has been calculated as Rs.850816/- (eight hundred fifty thousand, eight hundred and sixteen only) and Rs.28,811,987/- (twenty eight million, eight hundred eleven thousand, nine hundred and eighty seven only) respectively. In view of the foregoing you are requested to deposit the surcharges so that de-blocking of the Manufacturing Bond license No.04/2019-MFG/EXP can be done immediately and its renewal process can be initiated.

Sd/-  
(Habib Ahmad)  
Additional Collector-1

5. On perusal of the same, it reflects that while conducting the exercise of renewal of the Petitioner's Bonded Warehouse License including the audit, respondents have raised the impugned demand in respect of warehousing surcharge and penal surcharge. The notice though raises demand; however, it is not a proper Recovery Notice as required to be issued under the Customs Act, 1969 including Section 32 read with Section 98 of the Customs Act, 1969.

6. In view of such position, the impugned Notice, being without lawful authority, is hereby set aside, whereas, the respondents are at liberty to proceed strictly in accordance with law as to any alleged short recovery of warehousing surcharge and penal surcharge. With these observations, Petition stands allowed.

Judge

Judge