

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

1.	C.P. No.D-2834/2024	M/s. Perfect Craft (SMC-Pvt.) Ltd. v. the Federation of Pakistan and others.
2.	C.P. No.D-2835/2024	Muhammad Idrees v. the Federation of Pakistan and another.
3.	C.P. No.D-2836/2024	M/s. Max Comfort (SMC-Pvt.) Ltd. and another v. the Federation of Pakistan and another.
4.	C.P. No.D-2837/2024	M/s. Max Comfort (SMC-Pvt.) Ltd. v. the Federation of Pakistan and another.

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
------	-----------------------------------

Hearing case (priority)

1. For hearing of stay applications.
2. For hearing of main cases.

.....

**Dated 10.06.2024**

Mr. Muhammad Adeel Awan, Advocate for petitioners in all petitions.  
Mr. Kashif Nazeer, Assistant Attorney General.

.....

Sardar Zafar Hussain, Advocate files Vakalatnamas on behalf of Collectors of Customs/departments in all petitions, which are taken on record.

Learned counsel appearing for the petitioners submit that they were successful up until Tribunal stage. However, respondents have challenged the Tribunal ruling in some of the matters by filing respective References, which are pending adjudication. Notwithstanding the interim order (concerning with suspension only) passed in the Reference, the issue of release of the consignments was taken care of in many of the pending and disposed of petitions such as C.P. No.D-1882 of 2024 wherein interim order was passed with some conditions for the release of consignments accordingly discussed therein and the other one is C.P. No.D-2359 of 2024 which was disposed of in the following terms:-

9

“..... 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 consignment(s) covered by GD Nos.KAPS-IB-51703 dated 15.11.2023 and KAPS-IB-58865 dated 01.12.2023 be secured before the Nazir of this Court by way of Pay Order / Bank Guarantee. 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.

Appears that the main controversy as to the validity of the Valuation Ruling as above is pending before this Court in different Reference Applications. For all practical purpose, this petition has served its purpose, hence disposed of, whereas, the fate of the amount to be deposited with the Nazir of this Court shall be subject to final decision in the respective Reference Applications.

This petition stands disposed of with listed/pending application(s).”

Learned counsel for petitioners seeks a similar and identical relief, which learned counsels appearing for the respondents/ department concede.



In view of above instant petitions are disposed of in the above terms along with pending applications with above findings *mutatis mutandis*. In the meantime, by way of interim arrangement let the disputed amount of duty and taxes in respect of subject consignment(s) covered by GDs, particulars of which are disclosed in the respective petitions/pleadings be secured before the Nazir of this Court by way of Pay Order/ Bank Guarantee. Once the amount is secured as above, Nazir shall issue appropriate certificate(s) in favour of the respective petitioners, 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. The fate of the amount to be deposited with the Nazir of this Court shall be subject to final decision in the respective Reference Applications.



JUDGE



JUDGE

Ayaz Gul