

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

1.	C.P. No.D-2596/2024	Sultan Ali Jessani v. Federation of Pakistan
2.	C.P. No.D-2598/2024	I.I.K. Industries v. Federation of Pakistan
3.	C.P. No.D-2599/2024	Dilawar Hussain Awan v. Federation of Pakistan
4.	C.P. No.D-2615/2024	Naveed Trading Corp. Federation of Pakistan
5.	C.P. No.D-2616/2024	City Steel v. Federation of Pakistan
6.	C.P. No.D-2618/2024	Muhammad Fahad v. Federation of Pakistan
7.	C.P. No.D-2619/2024	Muhammad Idrees v. Federation of Pakistan

Date	Order with signature of Judge
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1. For hearing of stay applications.
2. For hearing of main cases

Dated: 04.06.2024

Mr. Imran Iqbal Jessani for petitioners in C.P. No.D-2596 of 2024.

Mr. Adeel Awan for petitioners in C.P. No.D-2598, D-2599, D-2618 and D-2619 of 2024.

Mr. Nasir Elahi Siddiqui holds brief for Mr. Abdul Moiz Jafferi for petitioners in C.P. No.D-2615 and D-2616 of 2024.

M/s Sardar Zafar Hussain and Kashif Nazeer Advocates have affected appearance on behalf of concerned Collectorate/departments.

Learned counsels 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:-

“..... 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)."

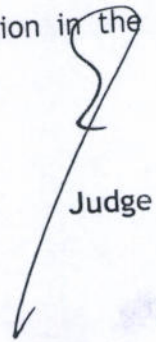
All the counsels appearing for petitioners seek a similar and identical relief, which learned counsels appearing for the respondents/ department concede.

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

