

# THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry &  
Mr. Justice Muhammad Jaffer Raza.

Const. Petition No. D - 4011 of 2025

[M/s. Sidra International v. FOP and others]

Petitioner : M/s. Sidra International through M/s. Rana Sakhawat Ali and Muhammad Saad Shafique, Advocates.

Respondent 1 : Federation of Pakistan through Syed Bashir Hussain Shah, Assistant Attorney General for Pakistan.

Respondent 2 : The Collector of Customs, MCC Appraisal West through M/s. Sardar Zafar Hussain and Kainat Larik, Advocates.

Date of hearing : 18-08-2025

Date of order : 18-08-2025

## **ORDER**

**Adnan Iqbal Chaudhry J.** - The facts are that Collector of Customs (Adjudication) issued show-cause notice dated 01.08.2025 (under section 180 of the Customs Act, 1969) to the Petitioner/importer against confiscation of goods mis-declared in the Goods Declaration and consequently for recovery of duty/taxes evaded. It is alleged that examination of goods revealed excess weight and an un-declared item. The Petitioner replied on 04.08.2025, submitting that the mis-declaration was not intentional and prayed:

*“Allow release of our consignment under section 83B of the Customs Act, 1969, upon securing the applicable duty, taxes, fine and penalty”.*

2. While a decision on the show-cause notice is pending, the goods have also not been released, hence the petition. Mr. Sakhawat Ali, learned counsel for the Petitioner confines the petition to prayer clause (i) viz. for a writ to release the goods by securing the disputed amount of duty, taxes, fine and penalty with the Nazir of this Court.

He submits that when the goods are not liable to outright confiscation and the Petitioner is willing to pay the applicable duty/taxes, there is no ground to detain them. On the other hand, Mr. Zafar Hussain, learned counsel for Customs submits that the Petitioner has not made a separate application under section 83B of the Customs Act to the concerned Collector of Customs and therefore the petition is premature. In rebuttal, Mr. Sakhawat Ali submits that section 83B of the Customs Act is not strictly applicable after a show-cause notice is issued.

3. Heard learned counsel and perused the record.

4. Apparently, the duty/taxes assessed by the Customs on the mis-declared goods is not disputed by the Petitioner, rather he is only contesting the allegation that an offence of mis-declaration was committed under section 32 of the Customs Act. Therefore, there is no cause to secure the duty/taxes with the Court.

5. In circumstances where the alleged offence is pending adjudication under section 179 of the Customs Act and there is no order of confiscation of goods as yet, the mechanism and conditions for seeking release of goods is provided in section 83B of the Customs Act which reads:

**“83B. Provisional release of imported goods:-** Where any offence is detected in respect of imported goods which are not liable to outright confiscation or needed for evidence at a later stage, the Collector of Customs may, on written request of owner of the goods, allow release of the same on payment of duty, taxes or other charges and furnishing bank guarantee or pay order against the amount of any penalty or fine which may be imposed on such goods.”

6. It will be seen that section 83B specifically caters to a situation where an offence is detected in respect of imported goods which are not liable to outright confiscation. Therefore, we are not impressed with the argument of the Petitioner’s counsel that section 83B is not available to the Petitioner, especially when such provision was invoked by the Petitioner himself in his reply to the show-cause notice.

7. The argument of learned counsel for the Customs is that the prayer for release of goods under section 83B made in the reply to the show-cause notice does not suffice, and the Petitioner is required to make a separate application to the concerned Collector. However, learned counsel does not refer to any SRO issued by the FBR that gives jurisdiction under section 83B of the Customs Act to an officer other than the Collector of Customs (Adjudication). Nevertheless, if the Collector seized of the show-cause notice did not have jurisdiction, he should have forwarded the Petitioner's request under section 83B to the designated Collector.

8. In view of the foregoing, we dispose of the petition with the following order:

The Collector of Customs (Adjudication) shall decide the Petitioner's request for release of goods under section 83B of the Customs Act within 4 days of receipt of this order. However, if the FBR has designated that power to another Collector, a copy of the Petitioner's request for such release shall be forwarded forthwith by the Collector (Adjudication) to the concerned Collector for decision with the stated time.

**JUDGE**

**JUDGE**

*SHABAN-SADAM\**