ORDER SHEET

# IN THE HIGH COURT OF SINDH AT KARACHI

SCRAs 109 to 125 of 2026

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

1. For orders on office objection.
2. For hearing of main case.
3. For hearing of CMA No.1233/2026.

**15.07.2026**

Mr. Amjad Hayat, advocate for the applicant.
Sardar Zafar Hussain, advocate alongwith Mr. M. Siddique, advocate for the respondent.

Per learned counsel for the applicant, the representative facts are that the consignments were imported on 03.07.2023 for which no GD has been filed for clearance till date. Pursuant to expiration of time period per section 82 of the Customs Act, 1969, show cause notices were issued culminating in the respective orders of adjudication; including the impugned judgment rendered by the Customs Appellate Tribunal. The operative part of the impugned judgment is reproduced herein below:

> 12. We have heard both sides and perused the record. The emerging facts borne by record are that the aforementioned 17 appeals involve seventeen consignments of Solar Panels imported from China by the appellant M/s Qiraam Impex (Pvt) Ltd. These consignments arrived at the South Asia Pakistan Terminal, Karachi around July 2023. However the said consignments kept lying unclaimed at the terminal as the importer did not file any Goods Declaration (GD) in terms of section 79 of the Customs Act 1969 for its clearance. Import of solar panels is subject to compliance with quality and safety standards approved by Pakistan Standards and Quality Control Authority (PSQCA) as given in Appendix N, and submission of Certificate of Compliance, Pre-Shipment Inspection Report etc., as specified at Sr. 35 of part-II of Appendix B of the Import Policy 2022. Further, para 6A and 6B of Chapter 13 of the Foreign Exchange Manual of the State Bank of Pakistan require issuance of EIF (Electronic Import Form) or FI (Financial Instrument) by an Authorized Bank/Dealer in respect of the amount to be remitted to the foreign supplier as payment against the import. It is a prior condition for filing of Goods Declaration. The said conditions originate from the restrictions prescribed under section 16 of the Customs Act, 1969. The importer thus failed to file Goods Declarations for clearance of the impugned consignments being unable to meet mandatory requirements of Import Policy Order. Thus the consignments have principally arrived in violation of para 3 and 7 of the Import Policy Order. The cases were adjudicated after issuance of show cause notices vide a common Order in Original No. 60 to 76/2024-25 dated 20.03.2025. The adjudicating authority confiscated the goods. The importer filed appeal before the Collector Appeals which were also rejected by Collector Appeals while observing that the customs authorities had treated the appellant leniently and in a facilitative manner by allowing exceptional time relaxation to provide mandatory documents, before taking action. The appellant admits that financial instruments are not available whereas such instruments are a mandatory requirement for legitimate import.
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> 13. The Respondent MCC has filed detailed comments highlighting mandatory procedure stipulated under Appendix-III - 24 Notification No:F.E.I/2016-SB dated 26.07.2016 issued by State Bank of Pakistan in addition to Circular No: 5 dated 05.08.2016. The MCC has also pressed into service the connected requirements vide Public Notice No: 02/2016 - (AW) issued by the Customs authorities/office of Chief Collector of

Customs Appraisement (South) Karachi. We have perused the said documents. It may be relevant to underscore the requirement specified therein. The para (ii) of the Notification dated 26.07.2016 by State Bank of Pakistan is accordingly produced below:-

"ii) All importers of goods shall make a declaration to the Customs Authorities through Electronic Import Form (EIF) before filing of Goods Declaration that the payment against imported goods has been or will be made in a manner and within a period as may be specified by the State Bank from time to time.

14. Likewise para 3, 4, & 6A of Circular No: 5 dated 05.08.2016 are also reproduced below:-

3. In order to import goods into Pakistan, all importers shall be required to submit EIF request through their WeBOC User ID to any Authorized Dealer of their choice in Pakistan. The request for EIF shall be submitted electronically by the importer and the AD shall approve or reject EIF electronically in WeBOC. User Manuals for issuance of EIF throug WeBOC for importers and ADs are attached as Annexure-l & Annexure-II respectively. It maybe noted that EIF will be applicable for imports cleared through both WeBOC and the old "One Customs" systems.

4. The Goods Declaration (GD) for import of goods cannot be filed wit/1 Pakistan Customs unless the approved EIF has been attached with respective GD. The import payments shall be recorded in EIF module by the concerned AD through Bank Debit Advice (BDA).

15. In order to give effect to the aforesaid procedure/conditions lairl down by the State Bank of Pakistan, the customs authorities have issuerl Public Notice dated 18.08.2016. The para 6A thereof is wholly relevant to the present matter and therefore it is reproduced below:

Para 6A - Issuance of Electronic Import Form (ENF)

i. Form Prescribed for Imports

In pursuance of SBP Notification No. F.E.1/2016-SB dated July 26, 2016, all importers of goods are required to make a declaration to the Customs Authorities in WeBOC on Electronic Import Form before filing of Goods Declaration through an Authorized Dealer. ADs shall approve EIT request submitted by the importers on the day of i) making advance payment; ii) establishment of letter of credit or iii) registration of contract.

i.) First stage roll out on 15.082016 would enable the importer to file EIF request to Bank and seek is approval; and.

ii.) Second stage deployment by 01.09.2016 which would encompass mandatory attachment of EIF with GD alongwith other components of the EIF module i.e. issuance of Bank Debit Advise (BDA), settlement etc.

16. We may remark that in the given circumstances the Importer is admittedly not in possession of mandatory documents prescribed under Import Policy Order read with law/Rules prescribed by the State Bank of Pakistan. We may refer to the Import Policy Order (IPO) 2022 wherein para 3 & 7 stipulate as under:-

"Para 3. Basis of Import:- Import may be made against all modes cf payments subject to procedures prescribed by the State Bank of Pakistan.

"Para 7. Prohibitions and restrictions imposed under other laws.-(1) Notwithstanding anything contained in this Order, the prohibitions, restrictions, conditions and requirements as prescribed under any other law, Act or Rules, for the time being in force, shall be applicable, mutatis mutandis, on specified imports.

2) Import from entities or countries sanctioned under United Nations Security Council Resolutions shall be subject to the provisions of SROs issued in pursuance to the United Nations (Security Council) Act, 1948 (XIV of 1948) by Ministry of Foreign Affairs, from time to time, in respect of goods, technologies and material specified therein."

17. It is therefore abundantly clear that the Notification and Circular issued by State Bank of Pakistan and the Public Notice issued by customs authorities cited in the para supra give effect to the condition stipulated vide para 3 & 7 of the Import Policy Order. Since the Appellant/Importer is not in possession of the Banking Instrument and the Electronic Import Form therefore the imports are in violation of Import Policy Order punishable under clause (9) of section 156(1) of the Customs Act 1969. We would like to also reproduced preamble of Clause 9 ibid below:-

9(1)If any goods, not being goods referred to in clause 8, are imported into or exported from Pakistan evading payment of leviable customs-duties or in violation of any prohibition or restriction on the importation or exportation of such goods imposed by or under this Act or any other law; or…………………..

…………………

> 18. As evident, the offense attracts Clause (9) ibid for violation of any prohibition or restriction on the Importation and Exportation, since the Appellant has failed to produce Banking instrument to fulfill the fundamental condition laid for Import by the State Bank of Pakistan. It is for the said reason that the goods have been confiscated by the . adjudicating authority under Clause 9 of the Section 156(1) of Customs Act. 1969. The Appellant is still not in possession of such documents despite that ample time has lapsed since the Order in Original was passed on 30.03.2025. There is nothing available with the Appellant to show how the impugned consignments can be treated as legitimate import without meeting mandatory condition. Therefore we do not find any thing to interfere with orders passed by the lower fora. Accordingly the appeals are dismissed being without substance.
> 19. There are no orders as to the cost.
> 20. Judgment passed and announced accordingly.

The entire crux of the arguments of the learned counsel for the applicant is that since no GD has ever been filed, therefore, no cause and/or occasion arose for department to take any action. Respectfully, the argument could not be corroborated with law. Section 82 of the Customs Act is very clear and it mandates for the GD to be filed within a specified time, failing which remedial measures are prescribed. There is no argument before us that the department has not followed the prescribed procedure.

Be that as it may, the order-in-original records that applicant has sought time and same was granted, however, the default subsisted. The same is discernable from paragraph 57 of the court file, which reads as follows:

> "The case was fixed for hearing on 04.02.2025, 08.02.2025 & 15.02.2025. Mr. Shanzad Patel authorized representative of the importer appeared and requested to allow thirty days for filing of G.D. upon fulfilment of all legal/codal formalities as required under the prevalent Import Policy Order, 2022. The request was accordingly acceded to. However, despite lapse of more than 30 days, the importer did not file the G.D for clearance of the impugned consignment. Since the case cannot be delay for an indefinite period, I am constrained to decide the case on merits and on the basis of available record."

Under such circumstances, no infirmity has been demonstrated insofar as the impugned judgment is concerned and no question of law arising there from has been articulated before us, therefore, these reference applications are dismissed.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969. Office is instructed to place copy hereof in the connected files.

Judge

Judge

Khuhro/PS