

Form No: HCJD/C-121.

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

Writ Petition No. 03 of 2021

The PCE (Pvt) Ltd.

**Vs**

Collector (Adjudication) Islamabad, etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
---	---	--

04-01-2021. M/s Ashraf Ali Awan and Laiq Siddique,  
Advocates for the petitioner.

The petitioner is aggrieved by Customs Order in Original No. 432/2020, wherein a demand has been created in the amount of Rs. 52,846,105/- on the ground that the petitioner has incorrectly garnered the benefit of reduced Customs Duty and Sales Tax under 5<sup>th</sup> Schedule to the Customs Act, 1969 and schedule 6 of the Sales Tax 1990 on the basis that the petitioner has not sufficiently documented the claim that imported apples are of Afghan origin, which is a pre-requisite for application of reduced tariff under the Customs Act, 1969 and the Sales Tax Act, 1990. The petitioner submits that an audit observation in the said matter was issued on 05.10.2020 providing an opportunity to the petitioner to respond the said observation. The petitioner replied to the said observation on 23.10.2020 whereby it was established

before the customs authorities through documentation that the apples are of Afghan origin. Notwithstanding this respondent No.1 had passed the impugned order which notes that a show cause notice was issued to the petitioner and that no one responded to the show cause notice.

2. Learned counsel for the petitioner, however, submits that the petitioner has received no show cause notice and it defies belief that when the petitioner was diligently responding to the audit observation dated 05.10.2020, he would not respond to show cause notice. The learned counsel has drawn the attention of this Court to the application filed by the petitioner before respondent No.1 dated 29.12.2020 seeking a copy of the show cause notice. The learned counsel further submits that he filed an appeal dated 26.12.2020 before the learned Customs Appellate Tribunal, which is dysfunctional and consequently the petitioner has no other remedy against the demand created through the impugned order and hence this petition.

3. Issue notice to respondent Nos. 1,2, 4 and 6 for **14.01.2021**.

**C.M No. 01 of 2020.**

Notice. In the meanwhile, the respondents will not affect recovery from the petitioner through coercive measures.

**C.M. No. 02-E of 2021.**

Exemption sought for is allowed,  
subject to all just and legal exceptions.

(BABAR SATTAR)  
JUDGE

*Saeed.*