

ORDER SHEET.

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

Writ Petition No. 23/2021

M/S Universal Gateway Trading Corporation.

Versus

Custom Appellate Tribunal Inland Revenue.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(01)	07.01.2021	Mr. Sikandar Naeem Qazi, Advocate for the petitioner.

The petitioner is aggrieved by notice dated 14.12.2020 issued by respondent No.2. This recovery notice has been issued pursuant to a demand generated by in original order dated 21.11.2016, wherein it was held that the petitioner is liable to pay custom duties and taxes on account of mis declaration of section 32 of the Customs Act, 1969 ("Act").

2. Learned counsel for the petitioner submits that appeal was filed before the Custom Appellate Tribunal on 13.01.2017 along with stay application, which has not been adjudicated so far; that on the last date of hearing, it was not the petitioner, but the respondents sought adjournment due to which appeal and stay application could not be decided; that presently the Custom Appellate Tribunal is dysfunctional and meanwhile, the respondents are seeking to recover the demand generated from the petitioner and consequently the petitioner is aggrieved by the recovery notice. Learned counsel further submits that the dispute relates to valuation and not mis-declaration, ascribing of value being a function performed by the custom officials and

not the importer and that a valuation ruling can only be applied prospectively as held in the case of “Dr. Sadia Jabbar Vs. Federation of Pakistan & others” (2018 PTD 1746). Learned counsel further states that the order-in-original was time bared as it was issued almost two years after the issuance of the show cause notice, while the maximum period allowed under law for issuance of an order-in-original after issuance of a show cause notice even in the event of grant of extension by the board, is one year.

3. Issue notice to respondents No. 2 to 4, who shall file report and para-wise comments within a fortnight, with an advance copy to be shared with the petitioner’s counsel. In the event that the para-wise comments are not filed, a responsible officer from the office of respondent No.2 shall appear before the Court on the next date of hearing along with the case file and record.

4. Re-list on 25.01.2021.

C.M. No.01/2021

Notice. No recovery shall be effected against the petitioner till the next date of hearing.

C.M. No.02/2021

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

(BABAR SATTAR)
JUDGE