

ORDER SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P.No.117/2021
THE Assistant Collector Customs (Preventive Division), MCC
Vs.
Syed Shah Abbas and others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	22.04.2021.	Mr. M. Amin Feroze Khan, Advocate for the petitioner. M/s. Jamshed Ali Khan and Khizar Mahmood, advocates for respondent No.1.

Through the petitioner, the Assistant Collector Customs (Preventive Division), Islamabad, assails the order dated 10.12.2020, passed by the Collector (Adjudication) holding that the vehicle Toyota Lexus Jeep, Registration No.ACT-681-ICT, Model-2016, chassis No.URJ201-4194376 is not smuggled one, and that the said vehicle is liable to be released on payment of taxes and duties envisaged under notification (SRO)577(I)/2006 dated 05.06.2006. Furthermore, it was held that since the said vehicle was purchased by respondent No.1 from the Embassy of the Hashemite Kingdom of Jordon, which falls under category-II of the said Notification, 45% of duty and taxes shall be leviable at the prevailing exchange rates.

2. Learned counsel for the petitioner submitted that the said vehicle is a smuggled vehicle; that no taxes and duties have been paid when the said vehicle was imported; that the said vehicle was detained under section 17 of the Customs Act, 1969 (“the 1969 Act”); that although the said vehicle had been

imported by the Embassy of Hashemite Kingdom of Jordon, but the same was in possession of a driver, who could not produce the import documents with respect to the said vehicle; that the said vehicle was seized under section 168 of the 1969 Act on the ground that it was a smuggled one and no duties and taxes with respect to it had been paid; and that the said vehicle was liable to be confiscated under the provisions of the 1969 Act. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned counsel for respondent No.1 submitted that respondent No.1 had purchased the said vehicle from the Embassy of Hashemite Kingdom of Jordon which had imported the said vehicle; that the Customs authorities at Karachi had confirmed the import of the said vehicle by the said Embassy; and that respondent No.1 is ready to pay the duties and taxes in accordance with the order dated 10.12.2020 passed by the Collector (Adjudication). Learned counsel for respondent No.1 prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. The petitioner has already preferred an appeal against the order dated 10.12.2020 passed by the Collector (Adjudication) before the

Custom Appellate Tribunal (“C.A.T.”). The reason why this Court entertained the instant petition against the said order dated 10.12.2020 was because the petitioner’s appeal could not be heard by the C.A.T. since it had not been made functional. Till date, the Chairman, C.A.T. has not been appointed.

6. There is no denying the fact that the Customs authorities had confirmed that the vehicle in question was imported by the Embassy of Hashemite Kingdom of Jordan under booklet No.D0006900 dated 03.12.2016 vide Good Declaration No.KAPE-HC-86582 dated 02.01.2017. The said vehicle was imported for Lt. Col. Ali Abdel Hafiz Mufteh Awandeh, who was in Pakistan under an exchange program with the Pakistan Air Force. This vehicle was sold to respondent No.1. Since the said vehicle had been imported by the Embassy of Hashemite Kingdom of Jordan, it cannot be held to be a smuggled vehicle. The said vehicle had been purchased by respondent No.1 when it was taken into custody by the Custom authorities. Now that it has been confirmed that the vehicle in question had been imported by the said Embassy, I do not find any legal infirmity in the order passed by the Collector (Adjudication) to allow the release of the vehicle on payment of the duties and taxes in accordance with notification (SRO)577(I)/2006 dated 05.06.2006. The Customs authorities ought to accept the payment of the duties and taxes in

accordance with the said Notification and ought not to frustrate the order passed by the Collector (Adjudication) by not accepting the payment of applicable duties and taxes by respondent No.1.

7. In view of the above the instant petition is dismissed. Nothing mentioned herein above shall operate to the petitioner's prejudice during the hearing of its appeal before the C.A.T.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Sanaullah