

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

Writ Petition No. 783 of 2021

M/S CLASSIC IMPEX.

VS

**ASSISTANT COLLECTOR CUSTOMS (RECOVERY CELL), DRYPORT,
ISLAMABAD, ETC.**

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	26.02.2021.	Petitioner in person.

Petitioner has filed the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

“In light of what has been stated above, it is, therefore, most humbly prayed that the instant writ petition may graciously be allowed, the impugned Notice/letter (1) NO. SI/MISC/RECOVERY/94/20/415, dated 04.02.2021 issued by the respondent No.1 may very graciously be declared illegal, unlawful, void ab-initio and tainted with sheer malafide and the same may very graciously be set at naught, in the best interest of justice.

It is further prayed that till the final disposal of this writ petition, the operation of impugned Notice / letter (1) No. SI/MISC/RECOVERY/94/20/415, dated 25.01.2021 and (2) letter No. SI/MISC/RECOVERY/94/20/415 dated 25.01.2021 and (2) letter No. SI/MISC/RECOVERY/94/20/426 dated 04.02.2021 issued by the respondent No.1 may very graciously be suspended.

Any other relief which this honorable Islamabad high court, Islamabad deems just and proper may also be awarded.”.

2. Learned counsel for the petitioner submitted that the petitioner has filed customs appeal before the Customs Appellate Tribunal, Islamabad, against the Order-in-Original No. 68 of 2018, dated 08.06.2018, passed by Respondent No.2. He submitted that the appeal is pending before the Tribunal but, since, the Customs Appellate Tribunal is presently non-functional and no other efficacious remedy is available to the petitioner, therefore, the petitioner has filed instant petition under Article 199 of the Constitution. He further submitted that it is apprehended that during the pendency of the appeal before the Tribunal, the respondents can adopt the coercive measures as mentioned in the impugned recovery notices /letters dated 25.01.2021 & 04.02.2021. He, therefore, prayed for suspension of the operation of impugned recovery notices/letters.

3. Perusal of the record appended with the petition revealed that the appeal before the Tribunal against the Order-in-Original No. 68 of 2018, dated 08.06.2018, is pending before the learned Customs Appellate Tribunal, Islamabad, who is the appropriate forum for granting any interim relief to the petitioner, however, it is also a matter of fact that the Customs Appellate Tribunal is non-functional, therefore, the remedy available to the petitioner for any interim relief till such time the Appellate Tribunal becomes

functional is under Article 199 of the Constitution before this Court.

4. In this view of the matter, operation of the impugned notices/letters dated 25.01.2021 & 04.02.2021, is suspended till such time the Customs Appellate Tribunal, resumed its functions, and decides the application for interim relief filed by the petitioner. Meanwhile, respondents are also directed to restrain from harassing the petition and not to adopt any coercive measures for recovery of disputed tax amount.

5. Instant petition stands **disposed of** in the above terms.

(LUBNA SALEEM PERVEZ)
JUDGE