

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 3975 of 2020

The Assistant Collector Custom (Preventive Division)

VS

Lt. Col. Ali Abdel Hafiz Mufleh Awawdeh, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.12.2020.	Mr. Muhammad Amin Feroz and Ch. Talib Hussain, Advocate for petitioner.

The petitioner, Assistant Collector Customs, has filed present petition seeking suspension of Order-in-Original No. 340/2020, dated 22.10.2020, passed by Respondent No. 3 / Collector (Adjudication) Islamabad, till such time the Customs Appellate Tribunal resumes its functions as at present the Tribunal is dysfunctional due to non-availability of its Chairman.

2. Learned counsel for the petitioner submitted that appeal against the impugned Order-in-Original dated 22.10.2020, has been filed before the Tribunal, whereby the directions for unconditional release of seized vehicle i.e. Lexus LX-570 Jeep, registration No. X-194-38, model 2016, chassis No. URJ201-4202498, has been given to the Respondent No. 1, and against which vehicle duties and taxes under Customs Act 1969, Sales

Tax Act, 1990, Federal Excise Tax, 2005 and Income Tax, 2001, amounting to Rs. 55,815,540/- have been determined. He submitted that since, Customs Appellate Tribunal is non-functional, therefore, no interim injunction order against the impugned Order-in-Original and release of vehicle can be obtained hence, present petition.

3. Heard learned counsel for the petitioner.

4. Record appended with the petition shows that the appeal against the impugned ONO is pending before the Customs Appellate Tribunal which is not functional due to non-availability of its Chairman, therefore, arguments of the learned counsel for the petitioner carry force. A considerable amount of government revenue has been calculated as a result of investigation proceeding which did not find favour with the adjudication authority, who vide impugned ONO has decided the unconditional release of subject vehicle. The appeal has been filed by the petitioner before Customs Tribunal and since the relevant forum is not available to the petitioner this petition is maintainable. Since, subject vehicle is disputed before the Customs Appellate Tribunal against which an amount of Rs. 55,815,540/- has been

made recoverable by the petitioner/Custom department, therefore, same may not be released till such time the Customs Appellate Tribunal resumes its functions. However, the concerned custom authorities are at liberty to take any decision for the release of the subject vehicle after securing the government revenue in accordance with law. The parties are directed to appear and argue the case before the Customs Appellate Tribunal, Islamabad, without seeking any adjournment as and when its appeal is fixed for hearing.

5. **Disposed of** in the above terms.

(LUBNA SALĒEM PERVEZ)
JUDGE