

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

W.P No. 1027 of 2022

Crescent Star Insurance Ltd.
VS
FBR, etc

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	14.03.2022.	Mr. Adam Hassan Malik, Advocate for the Petitioner.

Learned counsel for the Petitioner submits that guarantee issued by the Petitioner on behalf of Respondent No. 5 to Respondents No. 1 & 2 contained specific provision whereby it automatically terminated on issuance of “*Cross Border Certificate*”. According to the learned counsel for the Petitioner a WebOC on Respondent No. 1 & 2 shows that “*Cross Border Certificate*” has already been issued and therefore, as per learned counsel for the Petitioner guarantee could no longer be invoked.

2. Learned counsel for the Petitioner further submits that primary responsibility lies on transporter i.e Respondent No. 3 and therefore, Respondents No. 1 & 2 cannot seek recourse against the Petitioner’s guarantee till such time when Respondent No. 3 has failed to abide by his primary responsibility.

3. In view of such submissions the learned counsel for Petitioner is directed to satisfy this Court as to how this petition is maintainable as it may involve factual disputes. He has also submitted that only a policy holder can institute proceedings before the Insurance Tribunal and no departmental remedy under the Customs Act, 1969 is available either.

4. Let pre-admission notice be issued to the Respondents.

C.M No. 01/2022.

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

C.M No. 02/2022.

Pre-admission notice. In the meantime, till the next date of hearing, Respondents No. 1 & 2 are restrained for taking any coercive action against the Petitioner.

**(SAMAN RAFAT IMTIAZ)
JUDGE**