

JUDGMENT

AAMER FAROOQ, J.----This judgment shall decide the instant petition as well as Writ Petition No.2803 of 2015, Writ Petition No.2920 of 2015 and Writ Petition No. 3654 of 2015, as common questions of law and facts are involved.

2. The petitioner is an importer of split air conditioners and other related items and is aggrieved of the valuation ruling by Director of Valuation, Karachi, whereby the value for the purposes of customs duty was fixed, vide order dated 10.06.2015. The referred ruling was revised, vide Ruling No.840 of 2016, dated 21.04.2016.

3. Learned counsel for the petitioner, inter alia, contends that under Section 25 of the Customs Act, 1969, the value for the purposes of calculating customs duty is the transactional value of any consignment and on the basis thereof the petitioner's consignment value is less than a value fixed in Ruling No.744/2015, dated 10.06.2015. It was further submitted that realizing that the ruling is wrong the same was revised, vide ruling dated 21.04.2016. It was submitted that the consignment of the petitioner arrived on 03.07.2015 and 06.07.2015, but the respondent department is adamant that they shall calculate the customs duty on the basis of ruling dated 10.6.2015.

4. Learned counsel for the respondent department, inter alia, contends that the consignment of the petitioner arrived on 03.07.2015 and 06.07.2015 and at the relevant time Ruling No.744/2015 dated 10.06.2015 was in field, hence the customs duty according to the said value is to be paid by the petitioner.

5. During the course of arguments, learned counsel for the petitioner was confronted regarding the maintainability of the petition qua challenge to the ruling on the ground that respondent No.4 is beyond the territorial jurisdiction of this Court. Learned counsel contended that the Court has to see the dominant object in light of the case law reported as "PLD 1997 SC 334".

6. Learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

7. Under Section 25 of the Customs Act, 1969, the customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Pakistan. However, under Section 25-A of the Customs Act, 1969, the Collector of Customs on his own motion, or the Director of Customs Valuation on his own motion or on a reference made to him by any person or an officer of Customs, may determine the customs value of any goods or category of goods imported into or exported out of Pakistan, after following the methods laid down in Section 25, whichever is applicable. The referred Section starts with a non-obstante clause, as it provides notwithstanding the provisions contained in Section 25. Under subsection (2) of Section 25-A the Customs value determined under subsection (1) shall be the applicable customs, value for assessment of the relevant imported or exported goods.

8. As noted above, respondent No.2 issued a customs ruling

assessing the value of various items mentioned therein including the items, which were the subject matter of the import of the petitioner. In light of the referred ruling, the petitioner is bound to pay the customs duties on the value determined under the same. The petitioner submitted the goods declaration forms on 03.07.2015 and 06.07.2015 and on the said date Ruling No.744/2015, dated 10.06.2015 was in field. The said ruling was revised on 21.04.2016, hence, the revised ruling is not applicable in the case of the petitioner. The case law relied upon by the learned counsel for the petitioner in this behalf namely "Collector of Customs through Additional Collector of Customs v. Messrs Khas Trading Co." (2015 PTD 22) is not applicable in the facts and circumstances of the case.

9. In so far as, challenge to Ruling No.744/2015 is concerned, the same is not maintainable through the instant petition inasmuch as the referred ruling has been issued by

respondents Nos.2 and 4, who are beyond the territorial jurisdiction of this court. Under Article 199 of the Constitution, this Court can issue an appropriate direction to any person carrying on the affairs of federation within the territorial jurisdiction of this Court. Since the referred respondents are beyond the territorial jurisdiction, hence, the petitions to their extent are not maintainable. The case law relied upon by learned counsel for the petitioner is not relevant in the facts and circumstances.

10. In view of the above, the instant petitions are not maintainable and are accordingly dismissed.

Disclaimer: The content available on this document are just for Information. Users are advised not to depend on the information and use it for official purpose. Islamabad High Court, Islamabad is not responsible for any damages arising in contract from the use of the content of this site.

DRAFT