

## **JUDGMENT SHEET**

### **IN THE ISLAMABAD HIGH COURT,** **ISLAMABAD**

#### **WRIT PETITION NO. 1869 OF 2020**

**MUHAMMAD RIZWAN & BROTHERS**

**Vs.**

**FEDERATION OF PAKISTAN, ETC**

**Petitioner by : Mr. M. Abbas Haider, Advocate.**  
**Ms. Shabih Zehra, Advocate.**

**Respondents by : Dr. Farhat Zafar, Advocate.**  
**Ch. M. Nawaz, Advocate.**  
**M. Siddique, Inspector.**

**Date of hearing : 08.09.2020.**

**LUBNA SALEEM PERVEZ, J.** Through this petition, the Petitioner has invoked the constitutional jurisdiction of this court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, assailing the action of seizing the lawfully imported duties and taxes paid goods along with truck by respondent No.3 as illegal and unauthorized.

2. Brief facts of the case are that the petitioner is a sole proprietor of its business and imported 516.200 MT (516200 KG) of Non Prime Creh Alloy Coils covered under H.S Code 7225.5000 and paid duties and taxes amounting to Rs. 18,777,164/- through GD No. KPPI-146-2020 dated 04.04.2020. Out of the said consignment, the petitioner sold 37120 Kg to one Khurram Afzal, A-83, Jinnah Road, Rawalpindi, and was dispatched to him through M/s Swat Sarhad Goods Transport Company, which was intercepted on 30.06.2020 by Respondent No.3 who seized the truck along with goods without disclosing any reason, hence, present petition.

3. Learned counsel for the petitioner submitted that the petitioner has imported the subject consignment from Australia under LC No. ILC00041023820PK-13/01/2020 opened with Habib Bank Limited which arrived at Karachi; that all the due taxes and duties on the said consignment in the sum of Rs. 18,777,164/- were paid through valid GD properly processed through weboc system of the customs department at Karachi; that Respondent No.3 has illegally and without any

authority with malafide intentions seized the goods along with truck; that no reason for the seizure has been communicated and treated the petitioner with hostile attitude; He prayed for release of consignment of 37120 Kg of imported coils on the ground that it was a duty paid consignment of goods, which was illegally and unlawfully detained by Respondent No.3.

4. Learned counsel for Respondent No.2/ Collector Custom (Imports), Model Custom Collectorate, Port Qasim, Karachi through parawise comments submitted that the goods/coils imported by petitioner have been properly assessed and released after payment of leviabale custom duties and taxes thus, the duty and taxes paid on 40 MT of coils (the subject consignment) has also been verified.

5. Learned counsel for Respondent No.3, has filed parawise comments and submitted that the petitioner has no locus standi; that the petitioner has availed the alternate remedy available to him before the Additional Collector adjudication; that factual controversies are involved which cannot be resolved in writ / extraordinary constitutional jurisdiction and submitted that the present writ petition is not maintainable.

6. Arguments heard. Record perused.

7. Learned counsel for the petitioner through statement dated 03.09.2020 placed on record the photocopy of order passed by the Chairman, Customs Appellate Tribunal (HQ Islamabad) dated 24.08.2020, whereby the show cause notice and subsequent proceedings have been held to be illegal void ab-inito and set aside the Order-in-Original passed by Additional Collector is also set aside. However, learned counsel for the petitioner submitted that despite order passed by the Customs Appellate Tribunal, the respondent has not released the detained goods and truck thus, the conduct of Respondent No.3 is highly deplorable and in derogation with the order of the Customs Appellate Tribunal.

8. Since, the matter has already been proceeded through proper forums available under the Customs Act, 1969 during the pendency of this petition and finally the Appellate Tribunal has resolved the grievance of the petitioner while passing a favourable order, therefore, the purpose of filing the instant petition has been served.

9. Since, the order has been passed against the Custom Department/Respondent No.3 which still holds the field, and the respondents are at liberty to challenge the same u/s 196 of Customs Act, 1969 through reference application before the High Court. Admittedly, the subject consignment of coil is still in the custody of Respondent No.3 and it is expected that the concerned Collector as well as Respondent No.3 would look into the matter and will proceed in accordance with law.

10. Petition is disposed of accordingly.

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

Announced in open Court on this 17<sup>th</sup> day of September, 2020.

**JUDGE**

M. JUNAID USMAN