

## ORDER SHEET

### IN THE HIGH COURT OF SINDH, KARACHI

C.P. No. D-901 OF 2007

M/S Master Tiles & Ceramic Industries Ltd. vs. Fed. of Pakistan & Co.

Date

Order with signature of Judge

1. FOR ORDERS ON MISC. 2887/2007.
2. FOR ORDERS ON MISC. 9320/2007.
3. FOR KATCHA PESHI.
4. FOR ORDERS ON MISC. 2888/2007.

18.03.2009

Mr. Mian Abdul Ghaffar, advocate for the petitioner.

Mr. Muhammad Ahsan Ghani Siddiqui, advocate for respondent No.2.

Mr. Shahab Sarki, Standing Counsel for Federation of Pakistan.

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Petitioner M/s. Master Tiles & Ceramic Industries Ltd, for grant of requisite relief in the matter, have based this petition on the letter No.10(2)/2002-P&S-1(PT) dated 11.01.2007 issued by the Ministry of Ports & Shipping, Government of Pakistan, which read thus:

" I am directed to refer to M/s. Master Tiles and Ceramic Industries Limited's letter No.MTCL/MA/2044/IMP dated 21<sup>st</sup> December, 2006 (copy alongwith its enclosures enclosed) on the subject noted above and to convey the approval of the Federal Government for the waiver/refund of demurrage/storage charges on the consignment of machineries as per details given below of M/s. Master Tiles and Ceramic Industries Limited, Gujranwala till its clearance under section 79A of KPT Act.

No.	IGM #	INDEX #	DATE
1.	973	244	30.05.2006
2.	1102	211	17.06.2006
3.	1102	210	17.06.2006
4.	1625	1	16.09.2006
5.	1625	15	16.09.2006
6.	1685	9	28.09.2006
7.	1344	11	26.07.2006
8.	1879	27	01.11.2006
9.	1879	26	01.11.2006
10.	1879	76	01.11.2006



2. In a nutshell, case of the petitioner is that their ten imported consignments, as detailed in para-2 of the petition, were subjected to demurrage/ storage charges by respondent No.2, which action was assailed by the petitioner before the Ministry of Ports & Shipping, and in terms of Section 79A of the Karachi Port Trust Act, the said demurrage/storage charges were waived, but such decision though binding on respondent No.2, has not yet been implemented to the benefit of the petitioner.

3. On notice of this petition, counter affidavit has been filed on behalf of respondents No.1 and 2, accompanied with a bunch of documents to show the correspondence, which had taken place between the Ministry of Ports & Shipping and respondent No.2 in the context of the letter dated 11.01.2007. The perusal of such documents reveals that after the decision of the Ministry of Ports & Shipping contained in the said letter, the matter was taken up by respondent No.2 in the form of their letters No.S/56 dated 22.01.2007 and No.S/79 dated 24.01.2007 with the Ministry of Ports & Shipping. In response to these two letters, letter dated 14.02.2007 was received by the Chairman of respondent No.2, wherein certain observations were made in paras 4 and 5, which read thus:

"4. Time limit is technical matter which should have been resolved by KPT Board and had asked the consignees to lift their cargo within stipulated time. KPT is, therefore, advised to issue a notice to such consignees that they should lift their consignments within 15 days and after the given time limit, the waiver should be stopped.





5. As regards the review of the cases referred by KPT in letter No.S/79 dated 24.01.2007, it is stated that it is the prerogative of KPT Board to review these cases. Therefore, all these cases may be placed before KPT Board for review and Board Resolutions be sent to this Ministry for approval, if necessary under the rules."

4. Further case of the respondents is that in the light of such decision of the Ministry of Ports & Shipping, communicated to the respondent No.2, the case of the petitioner, as regard the waiver of demurrage/ storage charges was taken up by the Board of respondent No.2, which had taken the following decision regarding it.

"852. **Resolution:** The Board considered Agenda Item No.13 in pursuance of Ministry of Ports & Shipping's letter No.10(2)/2002-P&S-1(Pt), dated 11.01.2007 at Annexure-B. As directed by the Ministry of Ports & Shipping vide Para-5 of letter No.10(2)/2002-P&S-1(Pt), dated 14.02.2007 (Annexure-C), the Board reviewed the case regarding request from M/s. Master Tiles & Ceramic Industries Ltd., for Waiver of Storage Charges accrued on 10-Consignments Plant & Machinery in the light of Traffic Manager's letter No.T/W/Com/02/2007/39-41 dated 12.03.2007 duly endorsed by General Manager (O)/General Manager (F) and observed that KPT has no way contributed towards delay of these consignments and there being no merit rejected the request."

5. Such decision of the Board was communicated to the Ministry vide covering letter dated 31.03.2007 and thus the letter dated 11.01.2007, on which the petitioner is basing their whole claim in this petition, has lost its efficacy.





6. Mr. Mian Abdul Ghaffar, learned counsel for the petitioner, faced with this situation, candidly submits that he will be satisfied if this petition is disposed of in the terms that the Ministry of Ports & Shipping may be directed to take appropriate decision on the Board Resolution of respondent No.2, conveyed to them through their letter dated 31.03.2007. We find such request of the petitioner reasonable to the extent that the petitioner may approach the respondent No.1 in order to seek any further relief from them after the decision of the Board was taken against them in the light of the letter dated 14.02.2007, issued by the Ministry. To this proposal, learned counsel for the respondents and the Standing Counsel have also no objection.

In view of the above, this petition is disposed of in the above terms.

