

Judgment Sheet
IN THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Muhammad Jaffer

Constitutional Petition No. D – 4243 of 2025
(M/s. ASA International v/s Federation of Pakistan & others)

Constitutional Petition No. D – 4244 of 2025
(M/s. Munir Brothers v/s Federation of Pakistan & others)

Mr. Muhammad Rafi Kamboh, Advocate for the Petitioners.
Sardar Zafar Hussain, Advocate for Respondent No.2.

Date of hearing : 19.09.2025.

Date of order : 19.09.2025.

J U D G M E N T

MUHAMMAD JAFFER RAZA, J: Vide order dated 12.09.2025 learned counsel for the Petitioners was directed to satisfy the Court as to how the instant petitions are not hit by the judgments in the cases of **Collector of Customs, Customs House, Lahore & another vs. Messrs Wasim Radio Traders Lahore¹** and **Shamim Ahmed & another vs. Federation of Pakistan & others²**. Further, clarity was sought from the learned counsel for the Respondent regarding the Valuation Ruling noted therein.

2. Today, learned counsel for the Petitioners affected appearance and contended that his case is not hit by the above noted judgments for the reason that in both the judgments either review was pending under Section 25D³ of the Customs Act, 1969 (**‘Act’**) and/or appeal against the order of review was

¹ 2023 SCMR 176

² 2024 PTD 736

³ [25D. Review of the value determined.- Notwithstanding the provision contained in section 25A, the Director General Valuation may on his own motion or in pursuance to a review petition made to him within thirty days from the date of determination by any person or an officer of Customs may rescind or determine the value afresh: Provided that the proceedings so initiated shall be completed within sixty days of the filing of the review petition or initiation of proceedings as the case may be.]

pending before the Customs Appellate Tribunal under Section 194-A⁴ of the Act. He has further argued that in the instant petitions there is no such review or appeal pending as he has not impugned any Valuation Ruling. He has contended that his appeal under Section 193⁵ is pending before the Collector of Customs (Appeals) at Karachi against the assessment orders dated 30.07.2025⁶ and 01.08.2025⁷, respectively. He has lastly contended that the imported goods do not fall within any of the Valuation Rulings in the noted petitions.

3. Conversely, learned counsel for the Respondent has argued that in light of the third proviso⁸ of Section 81 of the Act, no case is made out for provisional release as the assessment orders are passed on the noted Rulings. He has further contended that case of the Petitioners falls squarely within the dicta laid down in the judgment of *Waseem Radio* (supra) and *Shamim Ahmed* (supra), therefore the relief sought by the Petitioners cannot be granted by this court.

4. We have heard both the learned counsels at length and have perused the judgments noted above. We agree with the contentions advanced by the

⁴ [194A. Appeals to the Appellate Tribunal.- (1) Any person or an officer of Customs aggrieved by any of the following orders may appeal to the Appellate Tribunal against such orders:- (a) a decision or order passed by an officer of Customs not below the rank of Additional Collector under section 179; (b) an order passed by the Collector (Appeals) under section 193; (c) an order passed under section 195; (d) an order passed in revision by the Director General Customs Valuation under section 25D:

⁵ 2 [193 Appeals to Collector (Appeals).- 60] (1) Any person including an officer of Customs aggrieved by any decision or order passed under sections 33, 79, 80 69[,131] 66[,] 179 66[and 195] by an officer of Customs below the rank of Additional Collector may prefer appeal to the Collector (Appeals) within thirty days of the date of communication to him of such decision or order: Provided that an appeal preferred after the expiry of thirty days may be admitted by the Collector (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.] (2) An appeal under this section shall be in such form and shall be verified in such manner as may be prescribed by rules made in this behalf. (3) An appeal made under this Act shall be accompanied by a fee of one thousand rupees to be paid in the manner that may be prescribed by the Board.

⁶ GD No.KAPS-HC-5080-08-07-2025

⁷ GD No.KAPS-HC-18224-30-07-2025

⁸ [Provided further that no provisional determination of value shall be allowed in those cases where a Valuation Ruling (VR) 30[or a Publication Valuation Ruling (PVR)], issued under section 25A, is in field, irrespective of the fact whether any review or review against such Valuation Ruling 30[or a Publication Valuation Ruling (PVR)] is pending in terms of section 25D or relevant rules, as the case may be.]

The instant proviso was inserted subsequent to the judgment rendered in the case of Wasim Radio, vide Finance Act 2022.

learned counsel for the Petitioners, that his case is distinguishable from the facts noted in the above noted judgments. It is evident from the perusal of the documents annexed with the instant petitions, that no review has been preferred against the Valuation Rulings under Section 25D of the Act and consequently no Appeal is pending before the Tribunal. For the purposes of clarity, it is noted that the Petitioners in the instant petitions are not aggrieved with the Valuation Rulings. It is their case that the subject Valuation Rulings are not applicable to the goods imported by the Petitioners, as the PCT⁹ code, in both the Rulings, remained unchanged.

5. In light of what has been held above we hold that the case of the Petitioners does not come within the ambit of the above noted judgments and therefore we are inclined to allow the instant petitions in the terms that the undisputed quantum of duties and taxes may be deposited with the Collectorate/Department and the disputed amount of the duties and taxes be secured before the Nazir of this Court, by way of pay order(s)/bank guarantee(s), in respect of the consignments covered by this petition. Order accordingly, in as much as there is no issue to the importability of the goods.

6. Once the amount is secured as noted above, the Nazir shall issue the appropriate certificate(s). If the amount is secured by way of pay order(s), the Nazir shall invest the amount in profit bearing instrument, as per the Rules. The Nazir's fee is settled at Rs.10,000/- per certificate.

7. Upon deposit of the undisputed quantum of duties and taxes with the Collectorate/Department and presentation of the certificate(s) issued by the Nazir, the concerned Collectorate/Department shall release the consignments forthwith.

⁹ Pakistan Customs Tariff

8. The fate of the amount secured supra shall be subject to the outcome of the appeals pending before the Collector (Appeals) Karachi. These petitions, along with pending applications, are disposed of in terms herein.

JUDGE

JUDGE

Nadeem Qureshi P.A.

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