

THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

C.P. No. D-5625 of 2025 : Messrs. Global Trade International
versus Federation of Pakistan &
Others.

For Petitioner : M/s. Daniyal Muzaffar and Mamuna
Nasreen, Advocates.

For Respondent No.1 : Ms. Mehreen Ibrahim, Assistant
Attorney General for Pakistan.

For Respondent No.2 : M/s. Muhammad Samiullah and
Aizaz Ahmed (Entomologists) are
present in person.

For Respondent No.3 : Mr. Aamir Ali Shaikh, Advocate.

Date of hearing : 15-12-2025

Date of order : 15-12-2025

ORDER

Adnan Iqbal Chaudhry, J. - Petitioner has imported a consignment of betel nuts (areca nuts). He is aggrieved of order passed by the Department of Plant Protection [DPP] under Rule 46 of the Pakistan Plant Quarantine Rules, 2019 [Rules] for confiscation and destruction or re-export of said consignment. Such order has been passed upon a lab report finding that aflatoxin levels in the goods is beyond acceptable limits, thus making the goods unfit for human consumption. Learned counsel for Petitioner confines the relief to an order for suspending destruction or re-export of the goods until another lab test is conducted. He relies on similar orders passed by this Court from time to time.

2. Heard learned counsel and perused the record.

3. Under the Import Policy Order, 2022, groundnuts and betel nuts are restricted items *i.e.* importable on certain conditions set-out

in Appendix-B to said Order viz. *“importable subject to (i) valid import permit issued by DPP, (ii) phytosanitary certificate from National Plant Protection Organization (NPPO) of country of origin and phytosanitary certificate for re-export (if the country of export is other than the country of origin) (iii) compliance with food safety requirements and (iv) Plant Protection Release Order by DPP”*. Apparently, as a measure of food safety, the DPP undertakes a check for aflatoxin levels in such goods. As observed in earlier cases, ‘aflatoxin’ is a contaminant that may appear naturally in food crops, however, higher levels of aflatoxin pose a threat to human health.

4. Aflatoxin detected in the subject consignment is 93.40 ppb. We have not been informed of the standard recognized or applied by the DPP in relation to aflatoxin. It is contended by learned counsel for Petitioner that the acceptable level in Pakistan is upto 30.00 ppb. However, since aflatoxin detected in the consignment before us is far more, we leave it to the DPP to apply the recognized standard.

5. Learned counsel for Petitioner submits that phytosanitary certificate issued by the exporting country is evidence that the goods were free from contamination when shipped; that on arrival of the goods, four sets of samples were drawn by the DPP for lab test; that the first sample sent to the lab was returned by the lab, whereafter the DPP sent the second sample for lab test upon which the impugned lab report was issued; that while no reason was disclosed to the Petitioner why the first sample was returned, it is apprehend that it was not properly sealed by the DPP, thus raising concern that the second sample too may have been compromised due to mishandling by the DPP and to the Petitioner’s detriment. He submits that the DPP should have drawn a fresh sample to allay the concerns of the Petitioner who has invested a considerable sum to ensure that goods being imported are fit for human consumption. On the other hand, learned DAG submits that the Petitioner does not demonstrate any cause to doubt the lab report, which has been issued by a reputed lab on the panel of the DPP; and that aflatoxin levels detected in the consignment is beyond the acceptable limit.

6. Mr. Samiullah from the DPP acknowledges that sample was returned by the lab because its seal was compromised. Apart from that, the fact of the matter is that the impugned order of confiscation, destruction or re-export of the goods is premised on a single lab test. Since the consignment is supported by a phytosanitary certificate issued by the Plant Protection Authority of the exporting country, there is some force in the submission that a fresh sample and lab test is justifiable to rule out any error in the first lab test, or that the sample so tested was not exposed to the elements after it was drawn which could have accelerated the build-up of aflatoxin by the time that sample came to be tested. There is indeed an intervening period between the drawing of the sample and its lab test.

7. In view of the foregoing, we direct the DPP to draw another sample from the subject consignment (BL No. SKMAPBLWKHI2501 dated 01.08.2025) in the presence of a representative of the Petitioner and have it tested from another lab notified on the panel of the DPP at the cost of the Petitioner. Till such time, the order of confiscation impugned shall remain suspended. In the event, the second lab test also returns with aflatoxin levels exceeding the acceptable limit, the order of confiscation shall stand revived. Petition is disposed of in said terms.

JUDGE

JUDGE