

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Suit No.340 of 2016

Date	Order with signature of Judge
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For hearing of CMA No.5723/2017

18.08.2017

Mrs. Naveen Merchant advocate for the plaintiff

Mr. Kashif Nazir advocate for the defendants

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This suit was disposed by consent on 26.09.2016. The paragraph No.4 and 5 of the order are relevant to the present controversy which are as under:-

“4. That the differential amount of the duty since already lying with the Nazir of this Court shall remain there until decision of the appeal by the appellate forum;

5. That in case the plaintiffs succeed at the appellate forum they are at liberty to move appropriate application in this suit for release of the bank guarantee/security furnished by them towards the differential amount, as stated above.”

2. Learned counsel for the plaintiff has filed application (CMA No.5723/2017) with the request that Nazir of this court may be directed to release the amount deposited by the plaintiff in compliance of the order dated 22.02.2016 on the ground that appeal filed by the plaintiff before the Custom Appellate Tribunal has been decided in favour of the plaintiff and paragraph No. 13 of the order of Custom Appellate Tribunal dated 03.02.2017 is reproduced as under:-

“13. On the basis of foregoing observations and discussion, we firmly hold that the appellant is

entitled for the benefit of Foreign Trade Agreement arrived at between Islamic Republic of Pakistan and Peoples Republic of China. Now, therefore, impugned Show Cause Notice No. CN-478734 dated 28-01-2016 is vacated and subsequently the impugned Order-In-Original No.500458 dated 01-04-2016 is set aside. Accordingly, the appeal in hand is allowed with no order as to cost.”

3. Along with the application, plaintiff’s counsel has also attached a certificate issued by the Nazir of this Court confirming that pay order dated 01.03.2016 in the sum of Rs.20,687,335/- has been deposited as differential amount of duties and taxes.

4. Mr. Kashif Nazir, learned counsel for the defendants has filed counter affidavit and he argued that reference is pending against the order and he admits that there is no interim order has been passed by the Division Bench suspending the order passed by the Tribunal.

5. Since the order dated 26.09.2016 is very clear and in paragraph No.4 and 5 the modalities have already been settled by consent of the parties, therefore, this application is allowed. Nazir is directed to release the amount including profit, if any, incurred thereon on proper verification and identification.

JUDGE

Aadil Arab