

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-3045 of 2018

Date	Order with signature of Judge
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Priority.

1. For orders on CMA No. 22303/20 (U/A)
2. For hearing of Misc. No. 13747/18.
3. For hearing of main case.

23.10.2020

Mr. Rana Sakhawat, advocate for the petitioners.

1. Granted.

2-3. Learned counsel for the petitioners submits that the controversy agitated through instant petition, whereby, the petitioner has challenged the vires of amendment in Section 18(3) of the Customs Act, 1969, through Finance Act, 2017, and issuance of SRO No.1035(I)/2017 dated 16.10.2017, with the approval of Minister-Incharge instead of Federal Government has already been decided by a Divisional Bench of this Court in the case of **Premier Systems (Pvt) Ltd. v. Federation of Pakistan and others (2018 PTD 861)**, therefore, requests that instant petition may also be disposed of in the similar terms.

Accordingly, instant petition stands disposed of in the similar terms as contained in the aforesaid judgment, which read as follows:-

- a. Section 18(3) of the Customs Act, 1969 as and to the extent as amended by the Finance Act, 2017 is declared to be ultra vires the Constitution, and of no legal effect;
- b. S.R.O. 1035(I)/2017 dated 16.10.2017, issued in terms of, and in purported exercise of the powers conferred by, the amended section 18(3) is declared

to be ultra vires, of no legal effect and is hereby quashed;

- c. The respondents or any authority or officer thereof are restrained from demanding any duty in terms of S.R.O. 1035 or from enforcing the same in any manner whatsoever, whether by way of detaining or refusing release of imported goods or otherwise;
- d. The security given by the petitioners under interim orders is directed to be released forthwith;
- e. Any sums paid by the petitioners by way of regulatory duty under or in terms of SRO 1035 must be refunded in full. Such refund may be made by way of direct repayment or adjustment (against any tax or duty) and in one lumpsum or in installments, as the FBR may determine (but the same policy must be adopted in all cases).....
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Petition stands disposed of in the above terms along with listed applications.

Judge

Judge

Ayaz P.S.