

ORDER SHEET

THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-5862 of 2019

Date Order with Signature(s) of Judge(s)

Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Amjad Ali Sahito.

Patel CorporationPetitioner.

Versus

Federation of Pakistan and others Respondents

16.02.2021

Petitioner is present in person.
Mr. Atifuddin, Advocate for the respondents No.2 and 3.
None present for the remaining respondents.
Mr. Hussain Bohra, Assistant Attorney General.

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Muhammad Ali Mazhar, J. The petitioner has challenged the Show Cause Notice dated 17.07.2019 issued by the Adjudicating Officer, Joint Director of Adjudication, State Bank of Pakistan, Banking Services Corporation (Bank). It is alleged in the Show Cause that the petitioner made exports as per details mentioned at serial No.1 to 9 but failed to repatriate export proceeds which is contravention of the Provision of Section 12(1) of Foreign Exchange Regulation Act, 1947 which is punishable under subsection 4 of Section 32B of the aforesaid Act. The petitioner has been called upon to show cause as to why penalty upto 5 times of the value of the goods should not be imposed. Though the petitioner has filed the reply of this show cause dated 01.08.2019 but simultaneously the petitioner has also challenged the Show Cause Notice through this Constitution Petition and

mentioned the reasons for not complying with the provisions mentioned in the Show Cause Notice.

It is stated that the petitioner was incapacitated to bring the foreign exchange of the said shipments against the invoices in question due to imposition of 200% duty by the Government of India on the products imported from Pakistan so the customers/consignees refused to buy the goods from the customers.

Learned counsel for the respondents No.2 and 3 argued that the proper course is to appear before the Adjudicating Officer, Adjudicating Authority and place the entire facts for consideration but the petitioner has directly approached this court in the constitutional jurisdiction which is not maintainable.

Learned D.A.G. also supports the arguments advanced by learned counsel for the respondents No.2 and 3.

We have gone through the Show Cause Notice, replies as well as the prayer clauses made by the petitioner. In the nutshell he wants us to issue directions for the relief and the reasons by which the petitioner was incapacitated to comply with the provisions of law. He has also prayed for suspension of the Show Cause Notice which is not possible in the writ jurisdiction as no adverse orders have been passed against the petitioner so far and he has been called upon to explain his position. All the grounds raised in the reply of Show Cause Notice as well as in this petition can be taken up before the Adjudicating Authority while deciding fate of the

Show Cause Notice. Let the petitioner be provided ample opportunity of hearing where the petitioner may place all relevant documents in his support and the Adjudicating Authority shall consider all those documents in accordance with law and pass appropriate order whereby the petitioner may avail appropriate opportunity, if aggrieved by the order passed by the Adjudicating Officer.

JUDGE

JUDGE

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