

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
 Suit No 136 of 2017

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of CMA No. 702/2017  
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07.03.2017

Mr. Khwaja Shamsul Islam Advocate for Plaintiff  
 Mr. Kashif Nazeer Advocate for Defendant No.1  
 Ms. Afsheen Aman Advocate for Defendant No.3

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**Muhammad Junaid Ghaffar, J.** The controversy in this matter pertains to release of old and used concrete transit mixer trucks imported by the Plaintiffs which according to them are withheld for clearance by Defendant No. 1.

2. Learned Counsel for the Plaintiffs submits that Defendant No. 1 without any lawful authority and jurisdiction has withheld clearance of these trucks, whereas, the controversy and the objections of Defendants regarding Classification as well as Certification by M/S Inchape Shipping Services Dubai as a PSI Company, have already been decided in favour of the importers and therefore, they be directed to release the consignment of the Plaintiffs.

3. On the other hand, learned Counsel for Defendant No. 1 submits that insofar as the decisions of this Court as above are concerned, they are not disputed but the defendants are only seeking compliance of another Judgment dated 20.5.2016 passed by a Division Bench of this Court in C.P. No. D-7924/2015 (*Burki & Company & others V. Federation of Pakistan and another*) whereby, Para 9 of the Import Policy Order has been interpreted and certain requirements are to be fulfilled. He further submits that contravention report has been issued in this matter and therefore, the Plaintiffs are not entitled for any relief.

4. I have heard both the learned Counsel and perused the record. Insofar as issuance of Contravention Report is concerned, it appears that the same has been issued after passing of status quo order in

this matter, hence the plaintiff cannot be non-suited on this ground. Moreover, on perusal of the record it reflects that controversy as raised in this matter already stands decided by various orders and judgments of this Court in Constitutional Petitions, therefore, I am of the view that entire Suit along with pending application(s) can be disposed of and such observation is also conceded to by both the learned Counsel. Accordingly, I hereby dispose of the Suit and pending application(s) in the following terms:-

- a) The Defendant No.1 shall, upon satisfaction with regard to compliance of Para 9 of the Import Policy Order as interpreted by the aforesaid judgment dated 20.05.2016, pass an assessment order accordingly for release of Vehicles in question.
  - b) If Defendant No.1 is not satisfied as to compliance of Para 9 of Import Policy Order as above, then the matter be decided after issuance of a proper Show Cause Notice and Adjudication in accordance with law.
  - c) It is clarified that the aforesaid exercise can only be carried out in respect of the Plaintiffs current imported consignments and insofar as previous imports are concerned, they are to be dealt with independently in accordance with law. Both the aforesaid exercise(s) shall be preferably carried out within 30 days from today.
  - d) If Defendant No.1 is satisfied with the contention of the Plaintiffs and an order for release of the imported consignments is passed, then the Plaintiffs shall also be entitled for Delay and Detention Certificate in accordance with law.
5. Suit stands disposed of in the aforesaid terms. Decree to follow.

ARSHAD/

J U D G E