

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P No.4703 & 5498 of 2015.

Date	Order with signature of Judge.
Hearing/Priority	
1. For hearing of CMA No.36730/15 (U/A 204)	
2. For hearing of CMA No.35012/15.	
3. For hearing of CMA No.35013/15 (U/O 39)	
4. For hearing of CMA No.34465/15	
5. For hearing of CMA No.20392/15 (stay)	
6. For hearing of Main Case.	

01-02-2016.

Mr. Khawaja Shamsul Islam, Advocate for the petitioner.
Mr. Syed Mohsin Imam, Advocate for respondent No.2 to 4.
Mr. Aslam Butt, DAG.
Yousaf Ali, Deputy Collector, Customs Hyderabad.

On 13.10.2015 in CP No. 4703 of 2015 an order was passed, whereby, the Petitioner was directed to deposit duties, taxes and surcharges, if any, with the Respondent department, whereafter, the Vehicles shall be released forthwith. Thereafter the Respondent/Collectorate had filed applications for review and suspension of Order dated 13-10-2015, whereas, the petitioner had moved contempt applications. All these applications are listed today. The Counsel for the Respondent/Collectorate has filed review applications on the ground that Pre-shipment Inspection Certificates furnished by the petitioner from M/s Inchcape Shipping Services (Dubai), LLC were not in accordance with the requirements of the Import Policy Order, 2013, which provides for a List of Companies who could issue PSI Certificates, whereas, the Company which has conducted the Pre-shipment Inspection was not a recognized Company as provided in Appendix-H to the Import Policy Order, 2013. Same stance has been taken by the Respondents in CP No. 5498 of 2015. Subsequently, the petitioner had filed Statement dated 18.1.2016, on which notice was ordered to the Respondent/Collectorate for today's hearing. Alongwith the Statement the petitioner has annexed two Letters dated 14-01-2016 issued by Ministry of Commerce, Government of Pakistan to two different importers, wherein operating part reads as under:-

“This Ministry has examined your request and has verified the Pre-Shipment Inspector Certificate obtained by your company from Inchcape Shipping Services (Dubai), LLC, and this Ministry has decided that the said certificate serves the purpose of the pre-shipment inspection and meets mandatory requirement of IPO.”

Counsel for the petitioner submits that the Ministry of Commerce, which is the competent authority, has clearly observed that the Pre-shipment Inspection Company M/s. Inchcape Shipping Services (Dubai), LLC, is an approved Pre-shipment Inspection Company and meets the mandatory requirement of Import Policy Order. In the circumstances, Counsel submits that the Order dated 13-10-2015 may be implemented by directing the Respondent/Collectorate to release the consignment in question.

Conversely, Mr. S. Mohsin Imam present alongwith Departmental Representative submits that the clarification referred to by the petitioner is in respect of some other Company and not specifically for the petitioner.

Learned DAG, however, does not oppose the contention of the petitioner and submits that the Letter specifically approves the said Company for Pre-shipment Inspection purposes.

We have heard the Learned Counsel as well as learned DAG and perused the Letter dated 14.01.2016 issued by Ministry of Commerce, Government of Pakistan. After having perused the record we are of the considered view that the objection raised on behalf of the Respondent/Collectorate is not justified as the Ministry of Commerce has categorically decided that the Certificates issued by M/s. Inchcape Shipping Services (Dubai), LLC, serves the purpose of pre-shipment inspection and meets mandatory requirement of Import Policy Order. In the circumstances, it would not be justified to ask the petitioner to bring similar sort of letter in his favour, as once the competent authority i.e. Ministry of Commerce has decided that the said Pre-shipment Inspection Company is an approved Company and meets the mandatory requirement of Import Policy Order, any such exercise would not only be futile but would also delay the matter for no useful purpose. It may be observed that it has not disputed before us that Ministry of Commerce is the competent authority in the matter in terms of the Import Policy Order.

Accordingly, the applications filed on behalf of the Respondent/Collectorate for review bearing CMA No.35013/2015 and suspension of Order dated 13-10-2015 bearing CMA No.35013/2015 are dismissed, whereas, applications filed on behalf of the petitioner in both the petitions are disposed of by directing the Respondent/Collectorate to release the Vehicles forthwith covered by instant petition(s) after deposit of duties, taxes and surcharges, if any, by the petitioner. The petitioner would also be entitled for issuance of Delay and Detention Certificate in terms of Section 14-A of the Customs Act, 1969. Office is directed to fix the matter for final hearing on the next date according to roster.

JUDGE

CHIEF JUSTICE

Ayaz