

*Order Sheet*  
IN THE HIGH COURT OF SINDH KARACHI  
Constitutional Petition No.D-2681 of 2019

Date	Order with Signature of Judge
------	-------------------------------

1. For hearing of CMA. No.11982/2019
2. For hearing of main case

**25.11.2021**

Mr. Muhammad Usman Shaukat, advocate for the petitioner  
Mr. Kafeel Ahmed Abbasi, DAG along with Mr. Hussain Bohra, Assistant Attorney General  
Mr. Khalid Rajpar, advocate for the respondent / MCC-Appraisalment West

---

Petitioner has invoked the jurisdiction of this Court under Article 199 by challenging the demand notice dated 03.4.2019, wherein the department directly issued a demand notice for the deposit of certain amounts followed by a date of hearing. Learned counsel for the petitioner submits that the impugned notice must fail as no demand notice could be issued which is followed by a show cause. Additionally, the show cause itself must contain all such allegations such as inadvertence or misconstruction on account of which the requisite amounts were left to be recovered. Learned counsel for the petitioner has relied upon the judgment of Assistant Collector Customs & others v. M/s Khyber Electric Lamps reported as 2001 SCMR 838.

As far as Mr. Khalid Rajpar, learned counsel for the department is concerned, submits that in fact all such discrepancies were disclosed in the audit report, which has not been made part of this demand notice, however, he is of the view that a denovo exercise of issuance of a show cause may be available to the department under the law.

We have heard the learned counsel and perused the material available on record.

The demand notice impugned in these proceedings in fact has flouted the requirement of law as a direct notice of deposit of certain amounts was issued before issuance of show cause in this regard. The second paragraph however, deals with the hearing clause that the petitioner's representative may appear and defend the case. Perhaps the petitioner is not at all aware as to what the case is, since no allegation of any nature either inadvertence or misconstruction of law has been mentioned in the demand notice, hence on both these counts, the impugned

notice must fail. Thus, we conclude that the impugned notice suffers from disclosing the allegations on the basis of which the demand could have been raised, which could enable the petitioner to defend himself before the authority, before which he supposed to appear.

Consequently, we allow this petition to the above extent, however, leaving the respondents at liberty to initiate proceedings strictly in accordance with law, if the limitation permits.

JUDGE

JUDGE

Zahid\*