

**ORDER SHEET**  
**THE HIGH COURT OF SINDH AT KARACHI**  
**CP No.D-4865 of 2018**

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DATE

ORDER WITH SIGNATURE OF JUDGE

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**Priority**

1. For hearing of Misc. No.21455 of 2018
2. For hearing of main case

**21.09.2021**

Mr. Kashif Nazeer, Advocate for the petitioner  
Mr. Khalid Rajpar, Advocate for respondent  
Mr. Kafeel Ahmed Abbasi, DAG a/w  
Mr. Hussain Bohra, Asstt. Attorney General

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While the petitioner imported fresh consignment, the respondents allegedly detected some mis-declaration of the goods and eventually asked the petitioner [as claimed] to set the differential amount of the duty and taxes. The petitioner paid the amount of Rs.5.663 million for the current consignment whereas, he was coerced to pay Rs.15.164 million towards the alleged re-assessment of some previous consignments under Section 80[3] of the Customs Act 1969. The amounts claimed have been paid under protest as immediately thereafter this petition was filed. However, when inquired, Mr. Khalid Rajpar, learned counsel for the respondent, conceded that there was no show cause notice issued to the petitioner as far as previous consignments are concerned as they were out of charge, hence, the recovery made in this regard was apparently not in accordance with law though he claimed that goods were re-assessed. He further concedes that the recovery process could only be followed by a show cause notice and assessment and re-assessment order, which process has not been undertaken in the case.

We, therefore, deem it appropriate to dispose of this petition that the amount disclosed in para 5 of the memo of petition was not followed by the legal procedure including but not limited to a show cause notice, hence, the department is directed to take necessary steps in this regard in accordance with law as available to them.

The fate of the amount recovered from the petitioner as disclosed in para 5 of the petition shall be subject to the proceedings likely to be initiated as undertaken by the respondent's counsel. In case no show cause notice is issued within 15 days, which [action] itself shall be subject to limitation available, the amount so recovered shall be released to the petitioner forthwith.

**J U D G E**

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