

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

CP No.D-3169 of 2020

Date	Order with signature of Judge(s)
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Priority

1. For hearing of CMA No.12567/2020.
2. For hearing of CMA No.13413/2020.
3. For hearing of main case.

23.10.2020

Mr. Ovais Ali Shah, advocate for the petitioner.
Mr. Khalid Mehmood Siddiqui, advocate for the respondents
No.2 to 4.
Mr. Muhammad Ahmer, Assistant Attorney General.

It appears that the petitioner had earlier impugned some proceedings and action of the department in CP No.D-5095 of 2019 and on 12.12.2019, the petition was disposed of by consent with certain directions.

Thereafter, the department passed an order on 26.12.2019 under Section 81 of the Customs Act, 1969, for provisional release of one GD pending with department. The petitioner was not satisfied with such provisional release and contested the proceedings and thereafter instant petition has been filed and again on 11.08.2020 some orders were passed.

Today we have heard both the learned counsel and are of the view that final adjudication / determination in this petition would not be appropriate as factual dispute is also involved. Hence, instant petition is disposed of with the following directions:

1. The consignment covered by GD No.KAPW-EB-185137-30-06-2019 shall be released subject to deposit of differential amount of duty and taxes with the Nazir of this court through pay order/bank guarantee to his satisfaction. Once pay order/bank guarantee is furnished; the Nazir court shall issue appropriate certificate to that effect and on presentation of the same goods shall be released.
2. If the amount is deposited in the shape of pay order, then the Nazir shall en-cash and invest the same in some profit bearing government scheme.

3. After release of the consignment, the respondents shall pass appropriate assessment order under Section 80, read with Section 104 of the Customs Act, 1969. However, before passing any order the petitioner shall be granted an opportunity of being heard and to contest the matter before the Customs authorities. Once order is passed, the petitioner, if aggrieved, shall avail appropriate remedy as available under the Customs Act, 1969. The fate of the amount deposited with the Nazir shall be dependent on the outcome of such proceedings.

4. Insofar as 4 GD's as mentioned in prayer clause (B) are concerned, the respondents shall act strictly in accordance with law, and if any adverse action is intended, the same shall be taken after due issuance of a Notice or a show cause notice, as the case may be, and after providing appropriate opportunity of hearing to the petitioner. The petitioner, if still aggrieved, may take recourse to remedy as available in law.

With these observations this petition stands disposed of along with pending application(s).

JUDGE

JUDGE