

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-6528 / 2015

Date	Order with signature of Judge
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- 1) For hearing of CMA No. 32857/2015.
- 2) For hearing of CMA No. 32858/2015.
- 3) For hearing of main case.

20.11.2015.

Ms. Arjumand Khan Advocate for the Petitioner.
Mr. Ainuddin Khan DAG.
Mr. Kashif Nazeer Advocate for the Respondent No. 2 to 5.
Mr. Najeebullah Jaferi Superintendent Customs I&I Karachi.

Through instant petition the petitioner has impugned seizure of Light Diesel Oil, from its warehouse in Karachi, as being without any lawful authority and jurisdiction.

Counsel for the petitioner submits that the diesel in question was purchased locally, as the petitioner is in the business of storage and supply of diesel oil, and is also in possession of a license in this regard for storage of petroleum products in District Gujarat, duly issued by the Chief Inspector of Explosives, Ministry of Industries and Production. She submits that to resolve the issue, the diesel oil in question may be sent for testing purposes to any laboratory so as to confirm its origin.

Conversely, Mr. Kshif Nazeer has filed Vakalatnama and comments on behalf of the respondents and submits that after seizure of the goods, an FIR has already been registered on 2.10.2015 and challan has also been filed on 27.10.2015 in the Court of Special Judge, Customs & Taxation, whereas, a show cause notice dated 13.11.2015 has also been issued. Therefore, the petitioner may be directed to approach the concerned adjudicating authority as instant petition has become infructuous. He further submits that upon search of the premises in

question, besides the foreign origin diesel, a bundle of valve seals of different oil companies were also seized in presence of mushir, which reflects that the petitioner is involved in the smuggling of foreign origin diesel and is transporting the same within the country by affixing such seals of local marketing companies.

Be that as it may, since after registration of FIR and submission of challan, a show cause notice has already been issued in the instant matter, we do not deem it appropriate to record any finding on the aforesaid contention of the respective parties as this requires resolving a factual controversy which cannot be undertaken in writ jurisdiction.

In the circumstances, we while disposing of instant petition, direct the petitioner to approach the concerned adjudicating authority and file its reply as well as request for getting the diesel tested by an independent laboratory, whereas, the adjudicating authority shall entertain such application while adjudicating the show cause notice, which shall be finalized within a maximum period of 30 days from today, in accordance with law and after affording proper opportunity of being heard to the petitioner.

Petition stands disposed of in the above terms.

J U D G E

JUDGE

ARSHAD/