

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

C.P. No.D-5039 and 5041 of 2020

Radium Silk Factory & Brother Enterprises (respectively)
Versus
Federation of Pakistan & others

Date	Order with signature of Judge
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1. For orders on Misc. No.9572/23 (in CP No.D-5041/2020)
2. For hearing of Misc. No.4869 & 4871 of 2023 respectively.
3. For hearing of Misc. No.21429 & 21435 of 2020 respectively.
4. For hearing of main cases.

Dated: 15.05.2023

Mr. Ovais Ali Shah a/w Ms. Maryam Riaz for petitioners.

Qazi Ayazuddin Qureshi, Assistant Attorney General for respondent No.1.

Mr. Muhammad Rashid Arfi for respondents No.2, 3 & 6.

Ms. Masooda Siraj for respondents No.4 and 5.

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- 1) Urgent application granted.
- 2) Counter-affidavit to these applications have been filed on behalf of respondent No.5 in Court today, which are taken on record.

Heard the counsel and perused record.

These are applications for release of the amounts secured in pursuance of order dated 16.10.2020 when the goods were provisionally released to the petitioners.

Record shows that Director General Valuation held the subject valuation ruling, (in a challenge made by petitioners), to have been lawfully issued, vide order dated 09.10.2020. These petitions were then filed only few days later i.e. 14.10.2020 for provisional release of the consignments and at the relevant time differential amounts in between alleged declaration and the valuation ruling, were secured. The said

order of Director General Valuation was also assailed before the Tribunal which allowed appeals on 17.01.2022. It is to be kept in mind that the goods were released subject to securing the differential amount between the declared value and the valuation ruling. The said order of the Tribunal was then challenged by the department under reference jurisdiction of this Court in SCRA No.223 etc. of 2022, as the petitioners were advantageously enjoying the orders of the release of the goods, pursuant to the orders of provisional release in these petitions as well as in the earlier petition bearing No.D-4480 of 2020 dated 21.09.2020, without originally submitting the goods declaration at the relevant time and only on account of a challenge to Valuation Ruling.

It appears that before such assessment, independently or on the basis of valuation ruling, could be made, the petitions were filed along with a challenge to the valuation ruling. The assessment order was then, on the goods declaration, passed in pursuance of the orders of the Court for its provisional release on the basis of a challenge to Valuation Ruling.

The above said References were then heard and decided on 17.03.2023 remanding the matters back to the Director General Valuation for redetermination of values of the goods in question to the extent of petitioners, afresh and in accordance with law. Thus, there is no independent assessment in accordance with law as of now as it is only in pursuance of the orders of the provisional release that the assessment order was passed keeping the differential amount between declared and valuation ruling, as securities.

It is thus at this stage, that the applications for release and discharge of securities are filed by the petitioners which perhaps is neither logical nor lawful as valuation ruling is yet to be adjudged and the difference of which is intact with the Nazir of this Court in shape of subject securities, as has been held/observed in the SCRA's, referred

above. Hence, in case such securities are ordered to be released and later in time the valuation ruling is held to be lawful, as held earlier by the Director General Valuation earlier, the process of recovery of differential amount would then be derailed and frustrated. The recovery through the securities available is one of the modes for the recovery of amounts and it should not be diluted by releasing it to the petitioners unless the remedies are exhausted in totality in favour of petitioners. It is thus not wise, at this stage to let go these securities. It is also noticeable that, had it been a case of independent assessment, the challenge to the Valuation Ruling would not have affected the independent assessment as the forum to challenge both is different.

In view of above, the applications are dismissed however it is subject to the outcome of the findings and conclusion of the Director General Valuation and/or any other remedy, if availed.

3&4) Adjourned.

Judge

Judge