

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D – 4550 of 2023

PRESENT:

Mr. Justice Aqeel Ahmed Abbasi
Mr. Justice Abdul Mobeen Lakho.

Fresh Case

1. *For orders on Misc. No.21001 of 2023*
2. *For orders on Misc. No.21002 of 2023*
3. *For orders on Misc. No.21003 of 2023*
4. *For hearing of main case.*

22.09.2023.

Mr. Darvesh K. Mandhan, Advocate for the petitioner.

ORDER

1. Through instant petition, the petitioners, who are importers of solar panels from China, expressed their apprehension that in the garb of audit proceedings in respect of consignments of solar panels imported during the year 2018 to 2023, the respondents will take adverse action against the petitioners, including registration of false cases of over invoicing and trade base money laundering. Per learned counsel, inspite of the fact that pursuant to Audit Notices issued under Sections 26A, 155M and 26B of the Customs Act, 1969, all the relevant documents have been supplied by the petitioners, whereas, according to learned counsel, the value of solar panels imported during such period is less than 23 cent as per Valuation Ruling No.260/2023, which was withdrawn by D.G. Customs (Valuation), whereas, solar panels were exempted from payment of Income tax and sales tax as per Schedule V of Income Tax Ordinance, 2001 and Schedule VI of Sales Tax Act, 1990. It has, therefore, been requested that respondents may be restrained from taking any adverse action against the petitioners pursuant to above notices. Learned counsel for the petitioners was

directed to assist this Court as to whether the audit proceedings initiated against the petitioners are permissible in law, in response to such, learned counsel for the petitioners has candidly submits that the respondent has the authority to conduct audit proceedings which according to learned counsel, might not be illegal, however, submits that once the petitioners have already supplied all the relevant documents and submitted response to all the queries, therefore, audit observations by the respondent in the aforesaid manner are contrary to the facts and law and there is apprehension that respondent may pass some adverse order against the petitioner including blocking of user I.D. and also registration of false case(s) against the petitioners, including over invoicing and money laundering.

2. Since the petitioners have been provided complete opportunity of being heard, whereas, prima-facie, audit proceedings do not suffer from any illegality, therefore, we are not inclined to interfere in the proceedings at this stage. Accordingly, petition is disposed of with the directions to the petitioners to submit response to the audit proceedings by raising all such factual and legal grounds, which are agitated through instant petition, whereas, it is expected that the respondents shall consider such response strictly in accordance with law and if the same is found satisfactory the audit proceedings may be concluded accordingly, however, in case of any violation if found, the petitioners may be provided opportunity of being heard, and thereafter appropriate order may be passed in accordance with law.

Accordingly, instant petition stands disposed of in the above terms along with listed applications.

JUDGE

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