

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No.[-]1167 of 2023

Date	Order with signature of Judge
	1. For hearing of CMA No.9088/2023. 2. For hearing of CMA No.3663/2023. 3. For orders on Office Objection at flag "A".

16.04.2024.

Mr. G. Haider Shaikh, Advocate for the Plaintiffs.
 Mr. Muhammad Khalil Dogar, Advocate for the Defendants.
 Ms. Rabia Khalid, Assistant Attorney General.

The plaintiff claims to be a regular importer of unprocessed / undyed 'Poly Greige Yarn'. It is said that same is classifiable under PCT Heading 5402.3900 and is to be assessed accordingly under sub-section (5) and (6) of Section 25 of the Customs Act, 1969 on the basis of import data of identical/similar goods, as reflected by past practice in respect of the consignments that have been imported by the plaintiff from time to time.

The Suit pertains to two such consignments which are lying at port, in respect of Goods Declaration bearing Nos. KPPI-HC-61412-03-06-2023 and KPPI-HC-61413-03-06-2023 have apparently been filed through the customs computerized system of the Collectorate of Customs (Appraisalment) Port Muhammad Bin Qasim, Karachi, and has been necessitated as the functionaries of Defendant Nos. 2 and 3 had put a hold on both consignments whilst seeking to apply customs values of 'Polyester Filament Yarns', classifiable under PCT Heading 5402.3300, and to assess the consignments as per Publication Value Reference (Valuation Ruling) No. 1733 / 2023 dated 24.01.2023. The Plaintiff has impugned such action and sought provisional of the consignments pending resolution of the dispute through laboratory analysis of the consignments for determining their correct nature/description for purpose of classification.

Learned counsel appearing on behalf of the Defendant Nos. 2 and 3 has filed the Counter-Affidavit sworn on behalf of those Defendants by the Assistant Collector of Customs, Appraisement, Port Muhammad Bin Qasim, and submitted the subject consignments would be dealt with in the manner stated therein. The same *inter alia* reads as follows:

“4. I say that the plaintiff sought release thereof under PCT Heading 5402.4500 & 5402.3900 respectively. Declared PCT 5402.4500 covers "Nylon Yarn" and PCT heading 5402.3900 covers "Other Yarn".

5. I say that according to the examination report, representative samples were drawn from the consignment in accordance with the law for laboratory tests for confirmation of the declared description and to facilitate the correct determination of leviable duties and taxes.

6. I say that meanwhile, the goods declared as "300 Denier Polyester Greige Yarn", were assessed under PCT heading 5402.3300 attracting Regulatory Duty @ 5% and as per Valuation Ruling No. 1733/2023 dated 24.01.2023, provisionally under Section 81 of the Customs Act, 1969 after securing differential amount of duty and other taxes in the shape of pay order amounting to Rs. 600,307/- and Rs. 521,239/- respectively pending finalization subject to Lab Test Report from Laboratories.

7. I say that the Custom House Lab vide its Test Report dated 16.06.2023 did not confirm that the goods as "300 Den Polyester Greige Yarn (DTY) but reported the goods as "30 Denier Polyester White Thin Multifilament Textured Yarn (DTY)" correctly classifiable under PCT Heading 5402.3300 wherein Regulatory Duty @ 5% is chargeable and Valuation Ruling No. 1733/2023 is applicable.

8. I say that the National Textile University, Karachi Campus vide Test Report dated 21.06.2023 confirmed the goods as "33.84 Denier Polyester Greige Yarn" as against declared 300 Denier correctly classifiable under PCT heading 5402.3300 being specified wherein Regulatory Duty is not applicable, however matter regarding applicability of Valuation Ruling No. 1733/2023 was referred to Directorate of Valuation, Karachi.

9. I say that in reply, the Directorate General of Customs Valuation, Karachi vide Valuation Advice advised the Collectorate that as Greige Yarn is not covered under valuation ruling, therefore, the Collectorate may finalize the assessment on the basis of ninety-days data.

10. I say that the provisional assessment is liable to be finalized on the basis of Ninety-days data and securities submitted at the time of release of the imported goods are liable to be released to the plaintiff.”

Under such circumstances, learned counsel for the Plaintiff is satisfied that the purpose of the Suit has been served and has sought its disposal in the foregoing terms, whereas learned Counsel for the Defendants Nos. 2 and 3 has also accorded his consent in that regard. As such, the Suit stands disposed of accordingly.

JUDGE