

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D - 6208 of 2024

Date

Order with signature of Judge

- 1) For hearing of Misc. No. 27604/2024.
- 2) For hearing of main case.

19.12.2024.

M/s. Zain A. Jatoy and Mustafa Mamdani, Advocates
for the Petitioner.

Mr. Kashif Nazeer, Assistant Attorney General for Federation of
Pakistan

None present on behalf of any of the Respondents except Federation of Pakistan though duly served, no further notice required, and service is held good.

Through this petition, the Petitioner has challenged the suspension of his Custom Agents License primarily on the ground that the suspension is without any notice or assigning reasons thereon, which is contrary to the dicta laid down by this Court initially in the case of K. G. TRADERS¹ and followed in DOCKS PRIVATE LIMITED², authored by one of us³ and many other cases⁴, whereby it has been held that it is *sine qua non*, to give reasons for an immediate suspension of a license without notice. Though the Rule 102(4) of Customs Rules 2001, empowers the Licensing Authority to suspend a license without notice, where immediate action is considered necessary; however, that also requires recording of reason, whereas the said power is to be exercised rarely and so also after assigning reasons for such a harsh ex-parte action. It has been further held that that even where the powers and

¹ K. G. TRADERS vs. DEPUTY COLLECTOR OF CUSTOMS (PLD 1997 Karachi 541)

² DOCKS PRIVATE LIMITED vs. FEDERATION OF PAKISTAN AND 3 OTHERS (2015 PTD 948)

³ Muhammad Junaid Ghaffar, J:

⁴ Pak Afghan Cargo Service (Pvt) Ltd. V Director (2014 PTD 661; Japan Shippers v Deputy Collector (1989 CLC 74); Saman Diplomatic Duty-Free Bonded Warehouse v CBR (PLD 1999 Karachi 170); A. H International v Assistant Collector (2003 PTD 2798);

authority to suspend the licence as an immediate measure, under exceptional circumstances are available, the same are to be exercised after following the mandate of law and the principles of natural justice as suspension of a licence is an extreme penal action as it puts a complete halt to the business of such person which can cause incalculable harm to such person, for which there is no redress, even if later the order of suspension is withdrawn. The Court has further held that if such suspension continues for a longer period, it may eventually destroy its business totally. Therefore, in such a situation it is incumbent upon the concerned authority to exercise such powers sparingly and only when the situation demands it as an extreme exigency. It is needless to state that even when such authority is exercised, the same should be done through a reasoned order and the aggrieved person should be informed forthwith, and the action which is to follow for which the immediate suspension has been done, must be completed and decided within the shortest possible time.

It further appears that though after suspension a Show Cause Notice has been issued on 17.10.2024 confronting the Petitioner as to why further proceedings may not be finalized under the Customs Agents Licensing Rules, including its revocation; however, the said proceedings are yet not finalized.

In view of hereinabove facts and circumstances of the case, since the impugned suspension has been done without any notice or reason(s) and is contrary to the aforesaid dicta laid down by this Court, we deem it appropriate to **allow** / dispose of this petition by *suspending* the Circular dated 10.10.2024, whereby the license of the Petitioner was suspended till such time any final order is passed pursuant to Show Cause Notice dated 17.10.2024. Once a final order is

passed by the Licensing Authority, and if aggrieved, the Petitioner, may seek further remedy in accordance with law.

Petition stands disposed of in these terms, whereas copy of the order in question be issued to Respondents No.2, 3 and 4 by the office.

J U D G E

J U D G E

Nasir/