

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Constitution Petition D-1016 of 2025

Date

Order with signature of Judge

PRIORITY.

- 1) For orders on office objection No. 01 & 22.
- 2) For hearing of CMA No. 5394/2025.
- 3) For hearing of main case.

19.03.2025.

Mr. Imran Iqbal Khan along with Mr. Aneel Zia, Advocate for Petitioner.
Ms. Kainat holding brief for Mr. Sardar Zafar Hussain, Advocate for
Respondent.

Ms. Kainat, Advocate has filed Vakalatnama of Mr. Sardar Zafar Hussain, Advocate on behalf of the Respondent, which is taken on record.

It appears that issue raised in this Petition regarding suspension of Petitioners' licenses has already been decided by us vide order dated 11.02.2025 in C.P. No. D-466 of 2025, which reads as follows:-

"Through all these Petitions, the Petitioners are aggrieved by suspension of their Custom Agents License vide Circular dated 01.02.2025 issued to all the Petitioners in an identical manner. In C. P. No. D - 466 of 2025 wherein notice has already been issued to the Respondents as well as DAG. The said Circular reads as under:-

"It is for information to all concerned that the Competent Licensing Authority (Collectorate of Customs Appraisement (West), Custom house, Karachi), in exercise of the powers vested under Rule 102(4) of Customs Rules, 2001 is pleased to "**SUSPEND**" the operation of Customs Agent Chal No.2470 of **M/s. New Vision** with immediate effect and until further orders.

2. As such "**NO**" documents should be processed / accepted, if filed by **M/s. New Vision**, Karachi, holding customs agent license No.2470."

Insofar as the remaining Petitions are concerned, they were fixed before us yesterday and were directed to be fixed with CP No. D-466 of 2025. Since identical Circulars have been impugned in all these petitions and matter is of urgency, learned Assistant Attorney General has been directed to waive notice, whereas the concerned officials as well as their Counsel are in attendance.

Dr. Farogh Naseem and Dr Shahab Imam jointly contends that Petitioners have challenged the suspension of their Custom Agents License primarily on the ground that the suspension is without any notice or assigning any 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. Respondent's Counsel as well as the officer present have been confronted and they submit that right now they are not in possession of any such order as it was passed in the computer system. We are afraid this argument cannot be sustained as the computer system is just a means of communication and does not absolve the Respondents from following the law, rules and the precedents of the Courts. We are mindful of the fact that though 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 reasons, 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 settled that that even where the powers and 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 a person's 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. In the instant matter, the circular as above is silent as to the reasons for suspension; hence, cannot be sustained.

It further appears that though after suspension respective Show Cause Notice(s) have been issued confronting the Petitioner(s) 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. However, on perusal of one of the show cause notices it transpires that there was no any immediate requirement of suspension of licenses of the Petitioners inasmuch as the allegations appear to be vague and are yet to be established on the basis of available record as the entire case of the Respondent Department rests on some WhatsApp messages exchanged allegedly between the Petitioners as well as a Customs Appraiser through one outsider Ayaz Ali. In these circumstances, we do not see any justifiable reason to sustain the suspension of petitioner's licenses pending final adjudication of the show cause notices.

In view of the above, all these Petitions are allowed / disposed of by suspending the suspension orders passed in the case of the Petitioners respectively, whereas the Petitioners shall respond to the show cause notices already issued and the Licensing Authority shall pass appropriate order on the show causes notice strictly in accordance with

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);

law and after affording opportunity of hearing to all concerned. If the Petitioners are still aggrieved they may avail appropriate remedy as may be available in law.

All Petitions stand disposed of in the above terms with pending application(s). Office to place copy of this order in connected petitions.”

Since, identical legal questions already stand decided as above, this Petition is allowed / disposed of in the same terms as above.

ACTING CHIEF JUSTICE

J U D G E

Ayaz