

THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

C.P. No. D-4185 of 2025

[Syed Saif Ali Shah & another v. Federation of Pakistan & Others]

Petitioner : Syed Saif Ali Shah & another through
M/s. Abdul Latif Chandio and Madan
Lal, Advocates.

Respondent No.1 : Federation of Pakistan through Mr.
Muhammad Akbar Khan, Assistant
Attorney General for Pakistan.

Respondent No.2 : Nemo.

Respondent No.3 : The Collector of Customs, Air Freight
Unit through Mr. Zohaib Ahmed,
Advocate.

Respondent No.4 : The Deputy Director Drug Regulatory
Authority of Pakistan through
representative namely, Syed Jamil
Ahmed, Superintendent (Legal).

Date of hearing : 02-09-2025

Date of order : 02-09-2025

ORDER

Adnan Iqbal Chaudhry, J.- Petitioner No.1 is suffering from Fabry Disease, a rare genetic disorder. For treatment, the Dow University Hospital issued him a prescription for a drug called Fabrazyme Injection which is not available in Pakistan. The Petitioner No.1, therefore, sought a permit to import said drug for personal use under Rule 13 of the Drugs (Import and Export) Rules, 1976. Such permit was issued to him by the Drug Regulatory Authority of Pakistan (DRAP). The drug was imported through Petitioner No.2. Upon import, the Petitioners claimed exemption from sales tax under entry No.81 of the Eighth Schedule to the Sales Tax Act, 1990 where the rate

of sales tax is 1%. However, the Customs assessed the drug @ 18% taking the view that entry No. 81 applies only to drugs registered under the Drugs Act, 1976. Against such determination, Petitioner No.1 has filed an appeal to the Collector of Customs (Appeals). The prayer in this petition is confined to an order for releasing the imported drug upon securing the differential sales tax. Though learned counsel for Respondent No.3 opposes such prayer, however, keeping in view the fact that an appeal against the assessment order is pending and it is not disputed that the subject drug has been imported for personal use for a life-threatening disease, we are inclined to allow the prayer.

The Petitioners shall pay the undisputed amount of duty/taxes to the department, whereas the differential of the sales tax in dispute shall be secured by the Petitioners with the Nazir of this Court by way of pay-order. Upon a certificate to that effect by the Nazir, the Customs shall release the subject drug forthwith. The Nazir shall invest the amount of the pay-order which shall be subject to outcome of aforesaid appeal. The Nazir's fee is fixed at Rs.10,000/- payable by the Petitioners. Petition is disposed of.

JUDGE

JUDGE

**PS/SADAM*