

THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Muhammad Jaffer Raza

C.P. No. D – 4787 of 2025: Imran Shaikh versus Federation of Pakistan and others.

C.P. No. D – 4810 of 2025: M/s. Seher Impex versus Federation of Pakistan and others.

C.P. No. D – 4811 of 2025: M/s. Bismillah International versus Federation of Pakistan and others.

C.P. No. D – 4812 of 2025: M/s. Al-Fajar Enterprises versus Federation of Pakistan and others.

C.P. No. D – 5159 of 2025: M/s. Ozair Enterprises versus Federation of Pakistan and others.

For the Petitioners : M/s. Rana Sakhawat Ali [*C.P. No. D – 4787 of 2025*], Daniyal Muzaffar, Mamuna Nasreen, Bushra Zaheer [*C.P. Nos. D – 4810, 4811 & 4812 of 2025*] and Syed Amir Ali Bokhari [*C.P. No. D – 5159 of 2025*], Advocates.

For the Respondents : Ms. Mehreen Ibrahim, Deputy Attorney General for Pakistan alongwith Mr. Abdul Samad, Entomologist, DPP, Karachi.

Mr. Aamir Ali Shaikh, Advocate in C.P. Nos. D – 4787, 4810, 4811 and 4812 all of 2025.

Mr. Pervaiz Ahmed Memon, Advocate in C.P. No. D – 5159 of 2025.

Date of hearing : 28-10-2025

Date of decision : 28-10-2025

ORDER

Adnan Iqbal Chaudhry J. – Petitioner of C.P. No. D-4787/2025 has imported a consignment of Groundnut Kernel (peanuts), whereas Petitioners of C.P. No. D-4810/2025 to 4812/2025 and C.P. No. D-5159/2025 have imported consignments of betel nuts (areca nuts).

They are aggrieved of orders passed by the Department of Plant Protection [DPP] under Rule 46 of the Pakistan Plant Quarantine Rules, 2019 [Rules] for confiscation and destruction or re-export of their respective consignments. In each case such order has been passed upon a lab report finding that aflatoxin levels in the goods are beyond acceptable limits, thus making the goods unfit for human consumption. Learned counsel for Petitioners confine the relief to an order for suspending destruction or re-export of the goods until another lab test is conducted. They rely on similar orders passed by this Court from time to time.

2. Heard learned counsel and perused the record.

3. Under the Import Policy Order, 2022, groundnuts and betel nuts are restricted items *i.e.* importable on certain conditions set-out in Appendix-B to said Order *viz.* “*importable subject to (i) valid import permit issued by DPP, (ii) phytosanitary certificate from National Plant Protection Organization (NPPO) of country of origin and phytosanitary certificate for re-export (if the country of export is other than the country of origin) (iii) compliance with food safety requirements and (iv) Plant Protection Release Order by DPP*”. Apparently, as a measure of food safety, the DPP undertakes a check for aflatoxin levels in such goods. As observed in earlier cases, ‘aflatoxin’ is a contaminant that may appear naturally in food crops, however, higher levels of aflatoxin pose a threat to human health.

4. Aflatoxin detected in the subject consignments is 378.27 ppb (C.P. No. D-4787/2025), 40.0 ppb (C.P. No. D-4810/2025), 53.349 ppb (C.P. No. D-4811/2025), 55.03 ppb (C.P. No. D-4812/2025) and 48.93 ppb (C.P. No. D-5159/2025). We have not been informed of the standard recognized or applied by the DPP in relation to aflatoxin. As per one of the lab reports before us, the United States Food & Drug Administration has specified that for all food items aflatoxin levels should not exceed 20.00 ppb. On the other hand, it is contended by learned counsel for Petitioners that the acceptable level in Pakistan is

upto 30.00 ppb. However, since aflatoxin detected in all consignments before us is far more, we leave it to the DPP to apply the recognized standard.

5. It is submitted by learned counsel for Petitioners that phytosanitary certificates issued by exporting countries are evidence that the goods were free from contamination when shipped; that on arrival of the goods, samples were taken by the DPP for lab test behind their back; that the Petitioners apprehend that such samples were not properly sealed and were exposed to contamination afterwards, or that there was an error in carrying out the lab test. They submit that the DPP should have conducted a second lab test to allay the concerns of Petitioners who invested considerable sums to ensure that goods being imported are fit for human consumption. On the other hand, learned DAG submits that Petitioners do not demonstrate any cause to doubt the lab reports, which have been issued by reputed labs on the panel of the DPP; that aflatoxin levels detected in all consignments is beyond the acceptable limit; and that the Petitioner in C.P. No. D-4787/2025 cannot even argue proximity to the acceptable limit given that aflatoxin detected in the groundnuts is 378.27 ppb.

6. The fact of the matter is that in each case, the impugned order of confiscation, destruction or re-export of the goods is premised on a single lab test. Since each consignment is supported by a phytosanitary certificate issued by the Plant Protection Authority of the exporting country, there is some force in the submission that a second sample and lab test is justifiable to rule out any error in the first lab test, or that the first sample was not subsequently exposed to the elements which accelerated the build-up of aflatoxin by the time that sample came to be tested. There is indeed an intervening period between the taking of samples and their lab test. As regards C.P. No. D-4787/2025, it is correct that aflatoxin of 378.27 ppb detected in the groundnuts is phenomenal and no-where near the acceptable level;

but then, it can also be argued that such a phenomenal figure by itself is perplexing and should not be readily accepted.

7. In view of the foregoing, we direct the DPP to take another sample from each consignment in the presence of a representative of the Petitioners and have it tested from another lab notified on the panel of the DPP at the cost of the Petitioners. Till such time, the order of confiscation impugned in each petition shall remain suspended. In the event, the second lab test also returns with aflatoxin levels exceeding the acceptable limit, the order of confiscation shall stand revived. Petitions are disposed of in said terms.

Office shall place this order in all petitions listed above.

JUDGE

JUDGE

SHABAN/SADAM