

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 25 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case
3. For hearing of CMA No.448/2026

27.04.2026

Sardar Zafar Hussain, advocate for the applicant

Messrs. Muhammad Rashid Khan Mahar and Muhammad Sauban Tasleem, advocates for respondent

Briefly stated the consignment arrived at port and per applicant's admitted facts pleaded in the memorandum of reference application "at the time of import, all legal requirements were duly fulfilled, including the issuance of import permission certificate /NOC etc. by the Department of Plant Protection. On the basis of these permissions, the consignments were lawfully cleared by the Customs".

This is stated to be the position on 07.05.2025, per admission of the applicant. The applicant places reliance on a subsequent letter dated 21.07.2025 whereby the permission granted to the respondent was determined.

The entire case of the respondent is that when duties, taxes etc. had been paid and all certification / NOC etc. were available with the applicant then on what basis could the consignment be detained for over two months and subsequently clearance denied on post-facto circumstances. Our attention is drawn to the operative part of the impugned judgment which reads as follows:

6. We have examined the record of the case and heard the Appellant's Counsel ("the Counsel") and the Departmental Representative ("DR") at length besides analyzing the contents of Memo of Appeal filed by the counsel and para-wise comments filed by the DR.

07. The Department defended the impugned orders on the ground that cancellation of IPC/NOC rendered the goods unauthorized and liable to confiscation. It was further argued that no re-export letter was received from consignee and re-export was discretionary and that Section 138 of the Customs Act, 1969, was applicable.

08. We have carefully examined the record, heard learned counsel for the Appellant, and considered the departmental submissions. It is an admitted position that:

- (i) All four impugned GDs were filed prior to issuance of DPP's cancellation order dated 27.05.2025.
- (ii) PSI endorsement and NOCs were validly issued on 08.05.2025.
- (iii) Judicial orders passed by the Islamabad High Court and the Civil Court had the effect of suspending the DPP's cancellation order.

The Collector (Appeals) erred in law by refusing to exercise jurisdiction merely on the plea of sub judice, while ignoring operative stay orders. A quasi-judicial authority cannot abdicate its statutory duty when judicial restraint orders exist.

09. The Para 20(d) of the Import Policy Order, 2022, categorically provides:

Goods rejected or denied import shall be allowed to be re-consigned or returned to the foreign exporters subject laws and regulations pertaining to trade of contraband goods."

Thus, even where import is denied, re-export is the rule, not confiscation, unless goods are per se prohibited or contraband, which is not the case herein.

10. The outright confiscation without affording the option of reexport amounts to unlawful deprivation of property, offending Articles 4, 18, and 25 of the Constitution. The Hon'ble Supreme Court in *Imtiaz v. Ghulam Ali* (PLD 1963 SC 382) has held that procedure must aid justice, not frustrate it.

11. In view of the foregoing discussion, the impugned Order-in-Appeal No.3318/2025 dated 10.09.2025 is set aside and the appeal is allowed. The Appellant is entitled to re-export of the subject consignments under Para 20(d) of Import Policy Order, 2022, following due customs formalities. The Department is directed to permit the cancellation of above four GDs and to allow the re-export of the subject goods, strictly in accordance with law and procedure"

The findings of the learned tribunal are rested on appreciation of evidence and bulwark by the law. Learned counsel for the applicant has made no effort to distinguish or displace the same and therefore has not been able to set forth the case that the conclusion could not be rested thereupon. Since no question of law remains to be raised before us, therefore, this reference application is hereby dismissed.

A copy of this decision may also be sent under the seal of this Court and signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Judge

Judge