

GOVERNMENT OF PAKISTAN  
CUSTOMS APPELLATE TRIBUNAL BENCH-I,  
3<sup>RD</sup> FLOOR JAMIL CHAMBER, SADDAR  
KARACHI.

**Before: Mr. Abdul Jabbar Quershi, Member Judicial-I, Karachi  
Mr. Aabdul Basit Chaudhary, Member Technical-I, Karachi**

**Customs Appeal No. K-06 to 199 & 215 to 218 of 2023**

M/s Imperial Cap Factory,  
Kundun Bazar, Juna Market, Karachi & Others.....Appellants

**Versus**

1. The Director,  
Directorate General of Customs Valuation,  
Customs House,  
Karachi.

2. The Chief Collector,  
Customs Appraisement (South),  
Customs House,  
Karachi.....Respondents

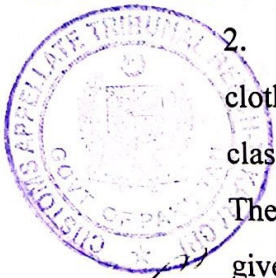
Mr. Aqeel Ahmed Khan & M. Bilal, Advocates present for the Appellants  
Mr. Naeem Butt, V.O for the Respondent.

Date of hearing: 12-01-2023.  
Date of Order: 12-01-2023.

**ORDER**

**Abdul Jabbar Qureshi, Member Judicial-I, Karachi:** By this common order, we decide the injunction applications filed by the Appellants under Order XXXIX Rule 1 & 2 of CPC for interim relief of suspension of impugned orders during the pendency of their customs appeals filed u/s 194A(1)(f) of the Customs Act, 1969 against common Order-in-Revision bearing No.01/2023 dated 04-01-2023 and Valuation Ruling bearing

**ATTESTED** No.1713/2022 dated 16-12-2022.

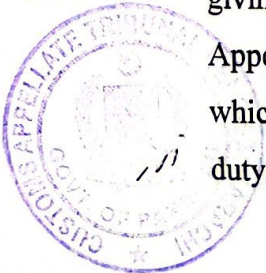


2. Briefly the facts of the case are that the Appellants are Importers of second hand clothing and used shoes, toys and kitchenware (hereinafter referred to as "the goods") classifiable under PCT headings 6309.0000, 9503.0090 and 7323.9900 respectively. The Director, Directorate General of Valuation, Karachi on recommendation of FTO given in complaint No.0017/OM/2022 dated 12-04-2022 initiated proceedings u/s

25A(1) of the Customs Act, 1969 for revision of Valuation Ruling No.986/2016 dated 06-12-2016 and pre-determination of customs values of the goods afresh. The Appellant made their submissions in the proceedings initiated u/s 25A(1) of the Act, 1969 which were culminated into the Valuation Ruling bearing No.1713/2022 dated 16-12-2022, wherein, the customs values of the goods were pre-determined by resorting final method (fall back) prescribed u/s 25(9) of the Customs Act, 1969 subject to Rule 121 of the Customs Rules, 2001. The Appellants being aggrieved with the Valuation Ruling and the values determined therein filed review petitions u/s 25D of the Customs Act, 1969 before the Director General, Directorate General of Valuation, Karachi which were rejected through common Order-in-Revision No.01/2023 dated 04-01-2023 against which instant appeals have been filed by the Appellants u/s 194A(1)(f) of the Customs Act, 1969, whereas, through injunction applications the Appellants seeks interim relief of suspension of operation of impugned orders during the pendency of their appeals.

3. On urgent applications of the Appellants the injunction applications a/w appeals have been fixed to pass appropriate order(s) after providing opportunity of being heard to the parties. The Counsel of the Appellants while reiterating the grounds of injunction applications argued that the impugned orders passed u/s 25A and 25D of the Customs Act, 1969 are *prima facie* illegal, arbitrary and against the *dictum* laid down and guidance given by the Honorable High Court of Sindh, Karachi in its judgments cited in 2014 PTD 176 *Goodwill Traders* and 2018 PTD 1746 *Sadia Jabbar*. The Counsel also argued that the impugned orders have been passed in illegal manner in absence of any tangible evidence and market inquiry report(s) which could establish multistep exercise of determination and proper application of mind of the concerned officers of Customs. The Counsel further contended that no finding of facts has been given while passing impugned orders in violation of provision of Section 24A of the General Clauses Act, 1897. The Counsel contended that the Respondent No.2 and its subordinate officers are giving effect to the impugned orders while making assessments of the goods of the Appellants during pendency of their appeals before this first independent judicial forum which is causing irreparable loss and injury on account of illegal demand of additional duty/taxes and un-necessary per day charges of demurrage and detention occurred on

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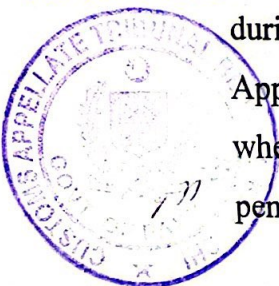




delay in customs clearance of consignments of goods. The Counsel also contended that the Appellants have also been deprived from relief of provisional release of their consignments during pendency of their appeals through third *proviso* inserted in Section 81(1) of the Customs Act, 1969 by the Finance Act, 2022. The Counsel finally contended that the Appellants have *prima facie* case and balance of convenience lies in their favor for grant of interim relief/temporary injunction sought through instant applications, and in support he relied upon judgments of Honorable High Court of Sindh, Karachi cited in 2019 MLD 1849 *Pfizer Pakistan (Pvt) Ltd* and 2002 PTD 679 *Pak-Saudi Fertilizers Limited etc* as well as judgment of Honorable Lahore High Court cited in 2003 PTD 1746. On the other hand, the representatives of the Respondents supported the impugned orders and opposed the injunction applications, but could not controvert the grounds and contentions of the Counsel of the Appellants.

4. We have heard the arguments of both sides and perused the record and examined the impugned orders. The grounds of appeals and arguments of the Counsel of the Appellants merit consideration, whereas, when the impugned Valuation Ruling is examined, it appears that the customs values of the goods have not been pre-determined in accordance with the provision of subsection (9) of Section 25 of the Customs Act, 1969 as interpreted by the Honorable High Court of Sindh, Karachi in its judgment cited in 2014 PTD 176 as relied upon by the Counsel being covered case. The impugned order passed u/s 25D of the Customs Act, 1969 does not disclose finding of facts to be recorded by the Director General, Directorate General of Valuation, Karachi while deciding the review petitions of the Appellants. This Tribunal is the first independent judicial forum and final fact-finding body outside the Departmental hierarchy before which the orders impugned in the pending appeals of the Appellants are under scrutiny and adjudication. It appears that after insertion of third *proviso* in Section 81(1) of the Customs Act, 1969 by the Finance Act, 2022 the relief of provisional release of consignments of the goods is not available to the Appellants during pendency of their appeals impugning the Valuation Ruling. We observed that the Appellants have *prima facie* case and balance of convenience also lies in their favor, whereas, the Respondent Department are giving effect to the orders impugned in pending appeals while assessing the goods to create demands of additional duty/taxes

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on which unnecessary per day charges of demurrage and detention are also been occurred which is causing financial loss and injury to the Appellants whose pending appeals are yet to be heard and decided by this first independent judicial forum having power to grant final relief which also have all such powers as may be reasonably incidental or ancillary to its main jurisdiction. Hence, in all fairness, equity and justice and to enable this forum to exercise its appellate jurisdiction expressly conferred more effectively and in accordance with what indisputably are requirement of justice the Appellants entitled for interim relief/temporary injunction as per principles enunciated and *dictum* laid down by the Superior Courts cited *Supra*.

5. After admitting these appeals arising out from the common impugned Order-in-Revision and Valuation Ruling to be fixed for hearing on 24-01-2023 and keeping in view of the above observations and following the judgments cited *Supra*, till such time, the appeals are finally decided the operation of impugned orders remain suspended to the extent of Appellants with directions to the Respondent Department to assess the goods of the Appellants on transaction values u/s 25(1) of the Act, 1969 or on the previous Valuation Ruling 986/2016 dated 06-12-2016 as the case may.

6. The injunction applications of the Appellants seeking same interim relief/temporary injunction are being allowed and disposed of in the above terms by this common order passed in all these cases --mentioned in (Schedule-A) involving common controversies and facts.

**(ABDUL BASIT CHAUDHARY)**

Member Technical-I  
Karachi

**(ABDUL JABBAR QURESHI)**

Member Judicial-I  
Karachi

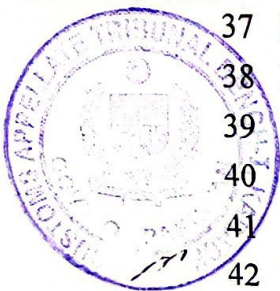
This order consist of (10) pages and each page bears my initials and office seal.

**SCHEDULE-A**

- |   |    |   |       |                          |
|---|----|---|-------|--------------------------|
| 1 | K- | 6 | /2023 | M/s Imperial Cap Factory |
| 2 | K- | 7 | /2023 | M/s Midsui Traders       |
| 3 | K- | 8 | /2023 | M/s AKM Traders          |
| 4 | K- | 9 | /2023 | M/s S.M Traders          |

5	K-	10	/2023	M/s Zain Impex
6	K-	11	/2023	M/s Hayat & Sons
7	K-	12	/2023	M/s T.S Traders
8	K-	13	/2023	M/s Noorani Enterprises
9	K-	14	/2023	M/s Haji Ghousuddin & Company
10	K-	15	/2023	M/s A.K Trading
11	K-	16	/2023	M/s Spin Gul Traders
12	K-	17	/2023	M/s Ahram Recycling & Cothing
13	K-	18	/2023	M/s Y.S.I Chundrigar Traders
14	K-	19	/2023	M/s Aman International
15	K-	20	/2023	M/s Fortune Traders
16	K-	21	/2023	M/s Ajwatex Enterprises
17	K-	22	/2023	M/s Areesha Enterprises
18	K-	23	/2023	M/s Thepda Impex
19	K-	24	/2023	M/s Business International
20	K-	25	/2023	M/s Khan Trading Company
21	K-	26	/2023	M/s Glamour International
22	K-	27	/2023	M/s Rags Studio
23	K-	28	/2023	M/s Bilal Brothers
24	K-	29	/2023	M/s Gul Trading Company
25	K-	30	/2023	M/s Al-Sadat Enterprises
26	K-	31	/2023	M/s Fahad International
27	K-	32	/2023	M/s ASFACO
28	K-	33	/2023	M/s Reeha Enterprises
29	K-	34	/2023	M/s JS & Company
30	K-	35	/2023	M/s MZK Enterprises
31	K-	36	/2023	M/s R.A International
32	K-	37	/2023	M/s AA Impex
33	K-	38	/2023	M/s Global Enterprises
34	K-	39	/2023	M/s Ahmed Traders
35	K-	40	/2023	M/s Younus Enterpriese
36	K-	41	/2023	M/s G.R International
37	K-	42	/2023	M/s Farhan Mubin Brothers
38	K-	43	/2023	M/s S.A Enterprises
39	K-	44	/2023	M/s Hermain Enterprises
40	K-	45	/2023	M/s Recytex International Business
41	K-	46	/2023	M/s YAK Trading
42	K-	47	/2023	M/s Ahmed & Co

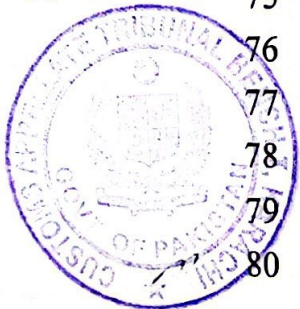
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43	K-	48	/2023	M/s Swift Traders
44	K-	49	/2023	M/s M. Aslam Usman
45	K-	50	/2023	M/s Seelani Enterprises
46	K-	51	/2023	M/s Turshi Enterprises
47	K-	52	/2023	M/s Habib & Sons
48	K-	53	/2023	M/s Naimat Enterprises
49	K-	54	/2023	M/s Jazebah & Company
50	K-	55	/2023	M/s Hermain Dawood Enterprises
51	K-	56	/2023	M/s A.S Traders
52	K-	57	/2023	M/s Swelo Trading
53	K-	58	/2023	M/s Royal Traders
54	K-	59	/2023	M/s Silver Traders
55	K-	60	/2023	M/s A.B International
56	K-	61	/2023	M/s Imperial Traders
57	K-	62	/2023	M/s Wali Impex
58	K-	63	/2023	M/a Ayan Trading Co.
59	K-	64	/2023	M/s F.A Enterprises
60	K-	65	/2023	M/s Bushra International
61	K-	66	/2023	M/s Pontus International
62	K-	67	/2023	M/s Abdul Hameed & Co
63	K-	68	/2023	M/s Muzamil Enterprises
64	K-	69	/2023	M/s Abid Trading & Co
65	K-	70	/2023	M/s Matsui Traders
66	K-	71	/2023	M/s Z.K Enterprises
67	K-	72	/2023	M/s A.T.C Global
68	K-	73	/2023	M/s Rasheed & Sons
69	K-	74	/2023	M/s Soneji Enterprises
70	K-	75	/2023	M/s M.G & Company
71	K-	76	/2023	M/s Muzamil Textiles
72	K-	77	/2023	M/s I.H.R International
73	K-	78	/2023	M/s Al-Tawakal Trading
74	K-	79	/2023	M/s Ammar International
75	K-	80	/2023	M/s A.K Brothers
76	K-	81	/2023	M/s Umer Co
77	K-	82	/2023	M/s Ramzan Brothers
78	K-	83	/2023	M/s H & H Trading Company
79	K-	84	/2023	M/s Nadir Traders
80	K-	85	/2023	M/s MAC International

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81	K-	86	/2023	M/s Rehmat & Sons
82	K-	87	/2023	M/s Global Link
83	K-	88	/2023	M/s A.S Enterprises
84	K-	89	/2023	M/s Abdullah & Brothers
85	K-	90	/2023	M/s Long International
86	K-	91	/2023	M/s J.B International
87	K-	92	/2023	M/s Shezy Worldwide Enterprises
88	K-	93	/2023	M/s Safina Impex
89	K-	94	/2023	M/s Sabzwari Traders
90	K-	95	/2023	M/s Saad International
91	K-	96	/2023	M/s Eastern Impex
92	K-	97	/2023	M/s Tooba Impex
93	K-	98	/2023	M/s Meraj Impex
94	K-	99	/2023	M/s S.H. International
95	K-	100	/2023	M/s JWK Traders
96	K-	101	/2023	M/s Hamid Associates
97	K-	102	/2023	M/s Saif International
98	K-	103	/2023	M/s DM Trading
99	K-	104	/2023	M/s Al-Noor Enterprises
100	K-	105	/2023	M/s Rehmat Impex
101	K-	106	/2023	M/s Pak Trading
102	K-	107	/2023	M/s Rabia Noor Associates
103	K-	108	/2023	M/s S.M Enterprises
104	K-	109	/2023	M/s Al-Wafa International
105	K-	110	/2023	M/s 7 Star Traders
106	K-	111	/2023	M/s Diamond Rags
107	K-	112	/2023	M/s Shah Enterprises
108	K-	113	/2023	M/s Ismail Impex
109	K-	114	/2023	M/s Gajjan & Sons
110	K-	115	/2023	M/s Progressive International
111	K-	116	/2023	M/s M.A Enterprises
112	K-	117	/2023	M/s Arfa International
113	K-	118	/2023	M/s M.S International
114	K-	119	/2023	M/s Amir & Company
115	K-	120	/2023	M/s Daniyal International
116	K-	121	/2023	M/s Burhan Traders
117	K-	122	/2023	M/s Junaid Enterprises
118	K-	123	/2023	M/s Hamrah Traders

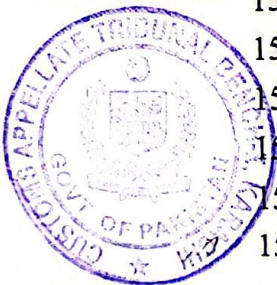
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119	K-	124	/2023	M/s Rizwan Impex
120	K-	125	/2023	M/s Muhammad Ali Enterprises
121	K-	126	/2023	M/s N.Y Enterprises
122	K-	127	/2023	M/s Amina Enterprises
123	K-	128	/2023	M/s Intex Global
124	K-	129	/2023	M/s Basri Enterprises
125	K-	130	/2023	M/s Ammad International
126	K-	131	/2023	M/s U.U Enterprises
127	K-	132	/2023	M/s Progressive Traders
128	K-	133	/2023	M/s S.M Enterprises
129	K-	134	/2023	M/s Ahmed & Brothers
130	K-	135	/2023	M/s Naba International
131	K-	136	/2023	M/s Baber & Co
132	K-	137	/2023	M/s Rani Enterprises
133	K-	138	/2023	M/s Arsalan Trading Co
134	K-	139	/2023	M/s H.R International
135	K-	140	/2023	M/s Al-Qudrat Trading Company
136	K-	141	/2023	M/s A.K Traders
137	K-	142	/2023	M/s Abrish Enterprises
138	K-	143	/2023	M/s Taimoor Enterprises
139	K-	144	/2023	M/s Ghani Traders
140	K-	145	/2023	M/s Arisha Traders Co
141	K-	146	/2023	M/s Idress Corporation
142	K-	147	/2023	M/s Pakistan SHCMA
143	K-	148	/2023	M/s Hayat Traders
144	K-	149	/2023	M/s Omer Trading
145	K-	150	/2023	M/s Super Star Rags
146	K-	151	/2023	M/s Taj Enterprises
147	K-	152	/2023	M/s M.Yousuf Enterprise
148	K-	153	/2023	M/s Jamil Enterprises
149	K-	154	/2023	M/s Yaqoobi Sons Enterprises
150	K-	155	/2023	M/s S.Y Enterprises
151	K-	156	/2023	M/s Azad Brothers
152	K-	157	/2023	M/s Zam Zam Trading
153	K-	158	/2023	M/s Haji Esmail & Co
154	K-	159	/2023	M/s A. Grade Rags
155	K-	160	/2023	M/s Global Business International
156	K-	161	/2023	M/s Ayan Enterprises

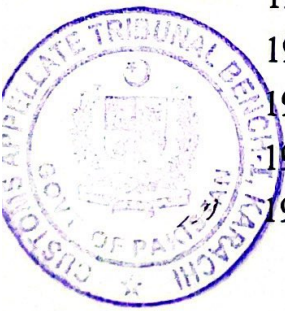
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157	K-	162	/2023	M/s R.H International
158	K-	163	/2023	M/s Asad International Sales Corporation
159	K-	164	/2023	M/s Al-Haq Rice Traders
160	K-	165	/2023	M/s S.M.K Traders
161	K-	166	/2023	M/s Ismail Haji Tormuhammad & Co
162	K-	167	/2023	M/s Jan Brothers
163	K-	168	/2023	M/s Masal International
164	K-	169	/2023	M/s Zainab Impex
165	K-	170	/2023	M/s Manal Traders
166	K-	171	/2023	M/s Global Enterprises
167	K-	172	/2023	M/s Ali Enterprises
168	K-	173	/2023	M/s 9 Star Enterprises
169	K-	174	/2023	M/s H.S Traders
170	K-	175	/2023	M/s Heco Tex
171	K-	176	/2023	M/s AMF Corporation
172	K-	177	/2023	M/s M. Ali & Sons Enterprises
173	K-	178	/2023	M/s Jawaid Trading Company
174	K-	179	/2023	M/s Bhesania Trading Co
175	K-	180	/2023	M/s Rauf Coporation
176	K-	181	/2023	M/s Hermain Corporation
177	K-	182	/2023	M/s Samz Traders
178	K-	183	/2023	M/s Rafi Impex
179	K-	184	/2023	M/s Aman Traders
180	K-	185	/2023	M/s Khan & Sons
181	K-	186	/2023	M/s Khan Brothers
182	K-	187	/2023	M/s M.Q Traders
183	K-	188	/2023	M/s Ahmed Brothers
184	K-	189	/2023	M/s S.S International
185	K-	190	/2023	M/s Hamza Shoes House
186	K-	191	/2023	M/s Mark Enterprises
187	K-	192	/2023	M/s Naseem Traders
188	K-	193	/2023	M/s Fortune Group
189	K-	194	/2023	M/s Agha Hasan & Co
190	K-	195	/2023	M/s Rahib International
191	K-	196	/2023	M/s Z. Enterprises
192	K-	197	/2023	M/s G. Tex International
193	K-	198	/2023	M/s Arafat Corporation
194	K-	199	/2023	M/s Abdullah & Sons Co

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195 K- 215 /2023 M/s Prince Enterprise  
196 K- 216 /2023 M/s Saif International  
197 K- 217 /2023 M/s Muhammad Ali & Co  
198 K- 218 /2023 M/s MAAS International

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GOVERNMENT OF PAKISTAN  
CUSTOMS APPELLATE TRIBUNAL  
BENCH-I, KARACHI

05-01-23

C.A. No(s) K- 6 to 199 & 215 to 218/23 dated 06/01/23  
M/s Imperial Cap Factory & 197 Others

against Order in Original/Court in Revision/Court in Appeal dated 01/2023 dt 04/01/2023  
passed by D G Valuation Karachi

Copy forwarded to:  
1. M/s MR. Aqeel Ahmed Khan Adv  
C/o Imperial Cap Factory 197 Others

2. Collector of Customs, App South & Valuation, Karachi

3. Collector of Customs, App South & Valuation, Karachi

4. Collector of Customs, App South & Valuation, Karachi

5. Directorate General of PCA/Valuation/ITR, Karachi

6. Directorate General of Intelligence & Investigation, Karachi/Hyderabad

7. Directorate General of Pakistan Coast Guard, Karachi

8. Office record.

REGISTRAR  
CUSTOMS APPELLATE TRIBUNAL  
BENCH-I, KARACHI