

TaxHelpline 2013/217

PESHAWAR HIGH COURT

Quashment Petition No.72 converted into Writ Petition No. 1740 of 2006, decided on 31st January, 2013, Date of hearing: 31st January, 2013

Before Mian Fasih-ul-Mulk and Assadullah Khan Chamkani . JJ

Shahid Qayum Khattak for Petitioner. Isaq Ali, D.A.-G, and Javed Ali Asghar for Respondents

SAEED IQBAL INTELLIGENCE OFFICER CUSTOMS INTELLIGENCE

vs

HASANT AKHTER and another

ORDER

MIAN FASH-I-UL-MULK, J. --This petition was initially filed as a quashment petition against the orders of Special Judge (Central) Customs Taxation and Anti-Smuggling, Peshawar dated 18-1-2006 where by, the learned Judge while allowing pre-arrest bail to respondent No.1 also ordered the ex-bonding of 250 Metric Tone of RBD Palm Orein in respect of Bill of Entry No.100048/O5 dated 27-12-2005. However, on the objection of learned counsel for respondent that the order passed by the Custom Judge to release raw material from the bonded Ware-House is not amenable to the inherent jurisdiction of this Court, the Cr. Misc. quashment petition was converted into instant writ petition on the assertion of learned counsel for petitioner that this Court can step-in to set at naught an order passed without lawful authority by any Tribunal or Special Court working in the territorial jurisdiction of this Court.

2. Today, during the respondent again raised an petition by referring to where under the petitioner, required to have filed an The objection seems to course of arguments, the learned counsel for objection on the maintainability of instant writ section 185-F of the Customs Act, 1969 if aggrieved by the order of Special Judge was appeal before the Special Appellate Court be reasonable in view of the provisions of section 185-F of the Customs Act, 1969, which runs as under:-

"185-F Appeal to Special Appellate Court.---(1).---Any person, including the Federal Government, aggrieved by any order passed or decision made by a Special Judge under this Act or under the Code of Criminal Procedure, 1898` (Act V of 1898), may subject to the provisions of Chapters XXX] and XXXII of the Code, within sixty days from the date of the order or decision, prefer an appeal or revision to the Special Appellate Court, and in hearing and disposing of such Appeal or revision, such Court shall exercise all the powers of a High Court under the said Code. "

Moreover, the order of Special Judge has already been acted upon and the alleged seized raw-material have been released to the respondent, therefore, in our view, no meaningful order can be passed by this court at this stage even if it comes to the conclusion that the release of raw-material was not warranted.

3. For the reasons stated, this writ petition being not maintainable is hereby dismissed with no order as to costs.

Petition dismissed



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