

Taxhelpline Case No. 105 of 2013

[INLAND REVENUE APPELLATE TRIBUNAL]

Customs Appeal No. 91/LB/2013 Date of hearing 06.06.2013 Date of judgment 10.06.2013

Ch. Muhammad Mubeen, Member (Judicial)

**For the appellant Mr. Ahmad Fraz, Advocate. For the respondent Mr. Zulfiqar Ali,
Inspector**

**Muhammad Irfan S/o Muhammad Ismail R/o House No. 6, Street No. 72, Mohallah Shafi
Park, Wassanpura, Lahore**

Vs

**1. The Collector of Customs, (Adjudication), Lahore. 2. The Superintendent ASO, Customs
House, Lahore**

ORDER---CH. MUHAMMAD MUBEEN, MEMBER (JUDICIAL):- This judgment will dispose of Custom Appeal No. 91/LB/2013 filed by the appellant against order-in-original No. 01/2012 dated 26.12.2012, passed by the learned Collector of Customs (Adjudication), Lahore.

2. Brief facts of the case, as reported by the Superintendent of Customs (ASO) MCC (Preventive) Lahore are that in pursuance of an information received on 6.12.12 to the effect that a huge quantity of non duty paid/smuggled F/O steel pipes will be transported from Lahore to Karachi. The staff of Customs (ASO) Lahore intercepted a truck bearing registration No. C-2197 loaded with steel pipes near Niazi Chowk, Bund Road, Lahore, which was coming from the city side and the person on the driving seat identified himself as Dilawar S/o Sardar Khan of Peshawar. On query the said driver stated that steel pipes were loaded in truck for Karachi. On demand, the said driver provided only a truck bilty bearing No.5301 dated 6.12.12 and further requested for allowing him to call the owner of the loaded steel pipes. Accordingly he was permitted and at about 220 hours a person appeared on the spot who introduced himself as Muhammad Irfan of Wassan Pura, Lahore but the said owner failed to provide any documentary evidence showing legal import or lawful possession of F/O steel pipes and sought some more time to submit the same but nothing has been provided by him. As consequence of adjudication proceedings the order-in-original was passed against the appellant. Being aggrieved by the said order, the appellant filed the present appeal.

3. It is contended by the learned counsel for the appellant that the impugned order has been passed in mechanical fashion and the respondent No. 1 has not applied its judicious and independent mind therefore, the same is liable to be set aside. It is further contended that the appellant is the bona fide purchaser, the said steel pipes were bought from the open market of the Karachi and the same were being transported through registered forwarding agency vide bilty No.5301 dated 6.12.12. It is argued by him that after detention of the goods he contacted to the

seller and demanded the legal import documents of the same who send GD dated 23.1.12 which he submitted the same to the respondent but they did not consider the same and passed a harsh and unjustified order.

4. On the other side Mr Zulfiqar Ali, Inspector rebutted the contentions raised by the appellant and defended the impugned order. It is stated by him that the impugned order has been passed in accordance with law and with judicious mind therefore, the same does not suffer from any factual or legal infirmity. It is further stated that the appellant himself shown his willingness to pay the duty and taxes leviable on the seized goods.

5. I have heard the arguments of the learned counsel for the appellant and Mr. Zulfiqar Ali, Inspector for the respondent department and with their able assistance perused the record, carefully. It is an admitted fact that the appellant has failed to establish that the goods in question were legally procured from the open market and they were duty paid. This fact is also strengthened through his willingness to pay the duty and taxes of the impugned goods. Relying on the willingness of the appellant, the adjudicating authority allowed the release of the same on payment of redemption fine equal to 25% of the assessed value in addition to payment of duty and taxes leviable thereon. In my opinion, the ratio of redemption fine is on the higher side, thus the same is reduced and the appellant is directed to pay the duty and taxes plus ten per cent redemption fine. The adjudicating authority also ordered the seized truck be released on payment of redemption fine of Rs. 10,000/-. However, taking a lenient view, the redemption fine is waived off as the goods in question were loaded by the Driver on the presumption that the same were legally acquired by the owner.

The appeal stands disposed of to the above extent only.

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