

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, HCJ
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO. 706 OF 2018

*(on appeal against the judgment dated
07.02.2018 of the High Court of Sindh
Karachi passed in C.P. D-7159/17)*

Federal Board of Revenue thr. the Secretary,
Revenue Division/Chairman, FBR, Islamabad &
others

...Petitioner(s)

VERSUS

M/s Premier Systems (Pvt) Ltd & others

...Respondent(s)

For the Petitioner(s): Mr. Shahid Hamid, ASC
Ms. Ayesha Hamid, ASC
Syed Rifaqat Hussain Shah, AOR
a/w Ms. Sarwat Tahira, Member Legal
FBR

For the Respondent(s): N.R.

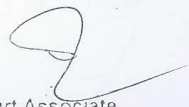
Date of Hearing: 06.03.2018

ORDER

MIAN SAQIB NISAR, CJ.— Having heard the learned
counsel for the petitioners, leave is granted to consider, *inter alia*,
the following:

- (a) Whether Article 77 of the Constitution of the Islamic Republic of Pakistan (*the Constitution*) permits the conferment of authority on the Federal Board of Revenue (*FBR*), with the approval of the Minister-in-Charge, to impose regulatory duty within the parameters prescribed by Section 18(3) of the Customs Act, 1969 (*Customs Act*)?

ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

- (b) Whether in light of the similar powers having been conferred on the FBR under Section 3(3) of the Federal Excise Act, 2005 and Section 237(2)(a) and (ab) of the Income Tax Ordinance, 2001, as well as other relevant statutory authorities under the Islamabad Capital Territory Local Government Act, 2001, NEPRA Act 1997, Civil Aviation Authority Ordinance, 1982 and the OGRA Ordinance, 2002, there is no reason to take a different view in this case?
- (c) Whether Article 98 of the Constitution does not exclude the power of the Parliament to confer authority on the FBR to decide the rate of regulatory duty?
- (d) Whether Articles 77 and 98 of the Constitution have to be read conjunctively and fully empower the Parliament to confer power of deciding the rate and other details of regulatory duty on the statutory body, i.e., FBR in which the Parliament has confidence?
- (e) Whether the regulatory duty, having been approved by the Economic Coordination Committee and the Federal Cabinet, as also notified and levied under SRO No.1035/2017 dated 16.10.2017, the said notification should even otherwise have been adjudged to be valid?
- (f) Whether the provisions of Section 18(3) of the Customs Act, as amended by the Finance Act, 2017, do not even otherwise violate the law laid down in the judgment of this Court reported as Messrs Mustafa Impex Karachi and others Vs. The Government of Pakistan through Secretary Finance, Islamabad and others (PLD 2016 SC 808)? and

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

(g) Whether the provisions of Section 19A of the Customs Act escaped the notice of the learned High Court of Sindh in directing the refund of collections made under SRO 1035/2017?

2. The interim order of the learned High Court dated 26.10.2017 shall remain in force and subject to that order, operation of the impugned judgment is suspended.



ISLAMABAD
6th March, 2018.
Not approved for reporting

Mudassar/*
19/3/18

Sd/- Mian Saqib Nisar, HCJ
Sd/- Umar Ata Bandial, J
Sd/- Ijaz ul Ahsan, J
Certified to be True Copy

[Signature]
Court Associate
Supreme Court of Pakistan
Islamabad

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