

Imported goods: SHC to resume hearing of RD case today

Sindh High Court (SHC) will resume hearing of case of regulatory duties imposed on imported goods through Federal Board of Revenue (FBR) SRO 1035 here on Thursday (December 7). Sindh High Court (SHC) had allowed Organisation for Advancement and Safeguard Industrial Sector (OASIS) to submit its arguments in writ petitions against imposition of regulatory duty (RD) on 700 items vide SRO No. 1035 of 2017 of Federal Board of Revenue (FBR).

It is learnt that .Sikandar Bashir Mohmand counsel for OASIS has completed his arguments before Sindh High Court in RD case on December 5. All the respondents have completed their arguments and now December 7, 2017 has been fixed as next date of hearing. SHC heard the matter almost on day to day basis due to multiplicity of writ petitions.

Counsel for OASIS pleaded the case that there is a constitutional question involved ie, whether the judgment of Mustafa Impex is relevant in this case or not. On which Sikandar brought an interesting argument before the court whereby he drew a clear distinction between the two different scenarios and said that Mustafa Impex lays down the law that executive authority of the Federal Government is vested in the Cabinet and cannot be further or sub delegated to the Additional Secretary in view of Articles 90, 97 and 99 after the 18th Amendment. However the present case of RD involved direct conferment of power by Parliament to subordinate officers which is permitted by Article 98 read with 77, Counsel for OASIS pleaded.

Lawyer of OASIS pleaded the case that therefore this is a case of direct conferment of power by Parliament whereas Mustafa Impex invoked purported delegation or sub-delegation of executive authority of the Federal Government. Whereas in the present case there is a different scenario where parliament has directly conferred powers to a statutory body ie, FBR subject to the approval of finance minister which has a constitutional role under Articles 77 read with Article 98 of the Constitution of Pakistan. Therefore Mustafa Impex is not relevant here and FBR had validly issued SRO 1035 imposing RD on some 700 items. The two matters also involve interpretation of different Articles of The Constitution, OASIS lawyer argued. The DAG also made arguments on few left over issues after which hearing was adjourned to December 7, 2017.

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