

**JUDGMENT SHEET  
PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT**

**W.P No.654-P/2026**

**M/s Diamond Taste & Health (Pvt) Ltd  
Vs  
Pakistan through Federal Secretary, Ministry of Finance,  
Islamabad and others.**

Date of hearing:      20.05.2026

Petitioner (by):      Mr. Saad Ali Qazi, Advocate.

Respondents (by):   M/s Ashfaq Ahmad AAG (F), Adnan  
Khattak Advocate along with Amirullah  
Inspector Customs Department, Wajid  
Noor Law Officer Customs  
(Appraisement), Peshawar.

**JUDGMENT**

**SYED ARSHAD ALI, J.-** The Federal Board of Revenue (FBR), while exercising its powers under Section 219 of the Customs Act, 1969 (IV of 1969), Section 50 of the Sales Tax Act, 1990, Section 40 of the Federal Excise Act, 2005, and Section 237 of the Income Tax Ordinance, 2001, introduced a scheme commonly known as the Export Facilitation Scheme (EFS) through SRO 450(I)/2001, allowing the acquisition of inputs without payment of duties and taxes by certain categories of exporters engaged in the manufacturing and export of goods. The said scheme enabled exporters to procure inputs without payment of taxes and duties so that the manufactured goods could be exported without the burden of such taxes and duties.

2.      The detailed mechanism governing the application, authorization, and oversight by the Regulatory Collector

has been elaborately provided in SRO 450(I)/2001 (“the SRO”). Rule 879(3) and Rule 880(4) of the SRO further authorize the Regulatory Collector to suspend an EFS authorization and supervise the availability of stock, etc.

**3.** M/s Diamond Taste & Health (Pvt.) Ltd., the petitioner, is a company registered under the company laws of Pakistan and is engaged in the import, export, and manufacture of Cumin Seeds, etc. The petitioner’s application for EFS authorization was allowed vide EFS Authorization No. EFS-PCSE-A060722-22-10-03-2023 in April 2023, initially for Basil Seeds, and subsequently, vide letter dated 15.05.2023, Cumin Seeds were also included in the said authorization. Since the petitioner was granted an authorization licence for the import of raw materials/goods without payment of taxes and duties, it imported Cumin and Basil Seeds under the scheme without payment of the applicable taxes and duties. The details of the Goods Declarations are available on record. (as evident from the letter dated 11.12.2025)

**4.** On 11.12.2025, two officials, namely, Tauseef Ahmad and Shahbaz Khan, Inspector, were authorized to conduct stock-taking of the goods acquired by the petitioner under the EFS. The stock-taking report is available on record, according to which the said officers visited the business premises/industrial unit of the petitioner on 15.12.2025 and observed that the unit was non-operational and that no labourers were present on the premises. The Manager of the unit informed the officers that operations at the factory had been suspended due to maintenance work.

5. The stock report available on record would show that when the unit was revisited on 19.12.2025, the team observed that the petitioner was handling duty-paid goods other than those imported under the EFS and that the goods imported under the EFS were stored together with duty-paid goods in a mixed manner. Upon physical examination of the goods, it was observed that, out of the total imported quantity of 696,571 kg of Cumin Seeds (Zeera), approximately 25,710 kg was available as finished goods, whereas approximately 661,348 kg was not available as raw material. Thus, it was observed that the essential requirements of the EFS had been violated.

6. Following the said stock-taking report, a notice was issued to the petitioner on 24.12.2025, requiring it to explain the non-availability of the goods. The said notice was replied to by the petitioner, requesting re-verification of the premises. However, in the meantime, the EFS facility was suspended vide order dated 14.01.2026. Accordingly, a contravention report was prepared, which was followed by the registration of the impugned FIR No. 02 of 2026 dated 19.01.2026 for alleged violations of Sections 18, 19, 32-A, and 219 of the Customs Act, 1969, read with SRO 957(I)/2021 dated 30.07.2021, Section 3(1) and 3(3) of the Imports and Exports (Control) Act, 1950, punishable under Section 156(1), clauses (10-A), (14-A), and (90), of the Customs Act, 1969.

7. The petitioners, through the instant petition, seek quashment of the FIR mainly on two grounds. Firstly, the registration of the FIR was premature, as the petitioners ought to have been afforded an opportunity to have the stock re-verified. Secondly, the respondent/Revenue has

issued show-cause notices to the petitioners for adjudication of their civil liability; therefore, unless such civil liability is finally determined, the registration of the FIR was not legally tenable.

**8.** When the case came up for hearing before this Court on 18.03.2026, the Court directed both parties to sit together and re-verify the stock. However, the respondents expressed their inability to conduct the re-verification on the ground that, since the EFS facility had been suspended and the matter was pending before the Chief Collector, it was not appropriate for an officer of the Customs Department to intervene in the matter.

**9.** Be that as it may, the petitioners have been charged with offences under Sections 18, 19, 32-A, and 219 of the Customs Act, 1969, read with SRO 957(I)/2021 dated 30.07.2021, and Sections 3(1) and 3(3) of the Imports and Exports (Control) Act, 1950, punishable under Section 156(1), clauses (10-A), (14-A), and (90), of the Customs Act, 1969. These offences, as provided under Section 161 of the Customs Act, 1969, are cognizable offences and are triable by the Special Judge whose office is established under Section 185 of the Customs Act, 1969.

**10.** Prima facie, the allegations contained in the FIR constitute cognizable offences. It is now well settled that when information regarding the commission of a cognizable offence is provided to the competent authority, the First Information Report is required to be registered for the purpose of investigation. However, the principal contention of the petitioners is that, unless their civil liability is determined by the adjudicating forum,

recourse to criminal prosecution, investigation, and registration of an FIR is not appropriate.

**11.** The said contention of the petitioners, however, has failed to impress us. It is by now well settled that there is no universal principle that, whenever civil proceedings and criminal proceedings involve similar or identical subject matter, the proceedings before the criminal Court must necessarily be stayed, much less that the FIR should be quashed.<sup>1</sup>

**12.** However, the question of staying criminal proceedings does not arise at this stage. The present issue relates to the quashment of the impugned FIR, which was registered by a competent forum under the aforesaid provisions of law, and the offences alleged therein are cognizable.

**13.** In the present case, the petitioners are charged with certain offences under section 156 of the Customs Act, 1969. Section 156 of the Customs Act, 1969 deals with offences and penalties for violations of fiscal laws, including the Customs Act, 1969. Certain items/clauses under section 156 provide for a penalty or fine only, without any mention of trial by a Judge, whereas there are other items which specifically mention the Special Judge (for the purpose of trial) and provide for a fine, in addition to punishment by way of imprisonment. Cases which are not triable by a Special Judge or which do not

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1. Syed Mohammad Ahmad v. The State (1972 SCMR 85); Muhammad Akbar v. The State and another (PLD 1968 SC 281); Soofi Muhammad Anwar v. Mst. Badshah Begum and 6 others (1999 SCMR 1475); M. Aslam Zaheer v. Ch. Shah Muhammad and another (2003 SCMR 1691); Rafique Bibi v. Muhammad Sharif and others (2006 SCMR 512); Haji Sardar Khalid Saleem v. Muhammad Ashraf and others (2006 SCMR 1192); Abdul Ahad v. Amjad Ali and others (PLD 2006 SC 771); and Seema Fareed and others v. The State and another (2008 SCMR 839), Muhammad Aslam v. The State and another (2017 SCMR 390), Muhammad Akbar v. The State and another (PLD 1969 SC 281), Haji Sardar Khalid Saleem v. Muhammad Ashraf and others (2006 SCMR 1192), Seema Fareed v. The State (2008 SCMR 839), State through Prosecutor General Punjab, Lahore v. Chaudhry Mohammad Khan and others (2025 SC 254)

entail any sentence are normally adjudicated under the adjudication scheme provided under section 179 of the Customs Act, 1969. Therefore, adjudication under section 179 and the trial of offences under sections 184 and 185-A of the Customs Act, 1969 operate in parallel. Thus, if the assertions of the learned counsel for the petitioners are accepted, it would render the criminal proceedings/criminal prosecution and investigation redundant. It is trite law that in interpreting a statute, the court must try to give meaning to all its provisions. The legislature is presumed not to have used superfluous language. Therefore, this Court cannot permit a construction that makes any provision of the statute redundant or otiose.

**14.** At this juncture, it would be advantageous to refer to the observations of the august Supreme Court of Pakistan in the *Adam's* case<sup>2</sup>, wherein a similar issue was comprehensively examined:

*Both are concurrent remedies but each is independent of the other. They cannot, therefore, be deemed to be mutually exclusive.*

*The proceeding taken by the custom authorities for the confiscation of the goods are more in the nature of departmental proceedings which have been characterized in English and American jurisprudence as proceedings in condemnation of the goods for purposes of revenue and are regarded as proceedings of a civil nature, despite their penal character.*

*The Sea Custom Authorities are not a judicial tribunal in the strict sense of that term nor can their verdict of confiscation of the goods be regarded as a punishment by the Court after regular trial for the purpose of supporting a plea of double jeopardy.*

*On the other hand, the proceedings for the criminal prosecution of a person who commits an offence*

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2. *Adam v. Collector of Customs, Karachi and another* (PLD 1969 SC 446)

*under the Act in relation to those goods, fall in a separate category. They are judicial proceedings for the determination of the guilt of the person concerned for commission of the alleged offence and entailing a punishment for the same.*

*The contention of the learned counsel for the appellant, therefore, that adjudication proceedings by the Custom Authorities and the prosecution of the offender in a criminal Court both of which are based on a common single act amount to "double jeopardy", is wholly misconceived.*

*And since the proceedings for adjudication by the Customs Authorities and the criminal prosecution of the offender in the Court are not inter-dependent, they can proceed simultaneously and neither can remain under suspension for the sake of the other.*

*The liability to prosecution under item (8-a) of the Schedule to section 167 of the Sea Customs Act before a Magistrate is not dependent on prior adjudication of liability to confiscation of goods by the officers of the Custom Department.*

The Hon'ble Lahore High Court, in *Muhammad Sarwar's case*,<sup>3</sup> followed the ratio laid down in *Adam's case* and held as follows:

*In the instant case, the right of the Special Judge, Customs, to punish the petitioner for smuggling and that of the Customs Officers to adjudicate whether the smuggled goods should be confiscated, both arise out of the same provision of law, namely, item 89 of subsection (1) of section 156 of the Customs Act, 1969. As held by the Supreme Court in Adam's case (PLD 1969 SC 446), the proceedings before the Special Judge are judicial proceedings for the determination of the guilt of the person concerned for committing the act of smuggling and entailing a punishment .of imprisonment of the same and the proceedings before the Customs Officers for the confiscation of the goods are departmental proceedings and such Customs Officers are not Judicial tribunals and that though the State has concurrent remedies, but each is independent of the other and they cannot be termed to be mutually exclusive.*

*Under the Customs Act, 1969, there is no right or inflexible, rule that the finding of the Special Judge, Customs, or of the Special Appellate Court in*

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3. *Muhammad Sarwar v. Federal Government of Pakistan and 3 others* (1988 PCr.LJ 213)

*appeal or revision, if any, acquitting an accused, is conclusive in all respects upon the adjudicating authority. The Customs Authority may initiate adjudication proceedings simultaneously with criminal proceedings or before or after its initiation or conclusion and even in disregard of the fact that the person has been convicted or acquitted.*

Likewise, the august Supreme Court in *Mahmood Ahmad Qureshi's case*<sup>4</sup>, reaffirmed the principle laid down in *Adam's case* by observing:

*It is an established law that criminal proceedings, before Special Judge are judicial proceedings while proceedings conducted before Custom Authorities relating to adjudication are in the nature of departmental proceedings, though in certain cases they emanate from the same subject-matter, yet, they are independent to each other and not necessarily, the findings recorded by Special Judge shall always control the findings recorded by the Custom Authorities relating to adjudication proceedings. These proceedings go side by side but do not mingle. The authoritative judgment on this point is reported as Adam v. Collector of Customs, Karachi (PLD 1969 SC 446), wherein a Full Bench of this Court comprising four Judges, including the then Chief Justice observed as follows:--*

*"Both are concurrent remedies but each is independent of the other. They cannot, therefore, be deemed to be mutually exclusive. Therefore, no question of double jeopardy arises when simultaneously or subsequently a trial is held to determine the guilt of the individual, who has been concerned in the offence in respect of the goods, which are the subject-matter of the adjudication proceedings. And since the proceedings for adjudication by the Customs Authorities and the criminal prosecution of the offender in the Court are not interdependent, they can proceed simultaneously and neither can remain under suspension for the sake of the other. "*

*Custom Authorities and any order of the Custom Judge would not, ipso facto, overrule, the decision delivered by the Custom Officers in adjudication proceedings, nor the acquittal of the accused would*

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4. Government of Pakistan through Additional Secretary (Customs), Ministry of Finance, Islamabad and another v. Mahmood Ahmed Qureshi and another (2002 SCMR 1527).

*nullify the effect of the adjudication proceedings, unless the said proceedings on their own strength were contrary to law and against the principles of natural justice.*

**15.** In the present case, the petitioners are charged, inter alia, under clause (10-A) of section 156, which prescribes both; imprisonment and the imposition of a penalty. Nevertheless, it is well settled that a Constitutional Court cannot assume the role of an Investigating Agency or interfere with an ongoing investigation by quashing an FIR while exercising its constitutional jurisdiction.<sup>5</sup>

**16.** Similarly, this Court has no mandate either to read into or read down any provision of law. If the FIR in question were to be quashed, it would amount to reading down the penal provisions of the Customs Act, 1969. In criminal proceedings, an FIR is the first document through which an incident relating to a cognizable offence is registered, after which the matter is entrusted to the Investigating Officer to collect evidence and, upon completion of the investigation, the Investigation Officer is to form an opinion as to whether the matter is triable by a Court or otherwise. Waiting for the disposal of the civil liability before initiating or registering an FIR would, therefore, amount to precluding the Investigating Officer from collecting incriminating material necessary for the trial of an accused. Such an approach may result in the destruction, concealment, or loss of material evidence necessary for the prosecution. Therefore, while exercising constitutional jurisdiction in matters seeking

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5. Shahnaz Begum v. The Hon'ble Judges of the High Court of Sindh and Baluchistan and another (PLD 1971 Supreme Court 677); Brig. (Rtd.) Imtiaz Ahmad v. Government of Pakistan through Secretary, Interior Division, Islamabad and 2 others (1994 SCMR 2142); and Dr. Ghulam Mustafa v. The State and others (2008 SCMR 76).

the quashment of an FIR, the Court must exercise utmost restraint and should not interfere with an ongoing investigation on the basis of mere conjectures or hypotheses.

17. In view of the foregoing discussion, we are satisfied that the registration of the impugned FIR was neither premature nor without lawful authority. The pendency of adjudication proceedings does not constitute a legal bar to criminal investigation or prosecution. Consequently, the instant constitutional petition, being devoid of merit, is dismissed.

**JUDGE**

**JUDGE**

Date of announcement of judgment

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(DB) Hon'ble Mr. Justice Syed Arshad Ali & Hon'ble Mr. Justice Babar Sattar

Mahmood Shah, PS