

Amended Title in Compliance of
Order Dated: 28.12.2022

IN THE HONOURABLE HIGH COURT OF SINDH, AT KARACHI

(Original Civil Jurisdiction)

presented on 29/12/22

Suit No.2006 of 2022

Assistant Registrar (C.O.)

Products

SILVER LAKE FOODS LIMITED

A company incorporated under the laws of Pakistan
Having its office at Plot No.41/1
Trans Lyrai, Hawksbay Road,
Maripur, District West,
Karachi.

through its authorized person in this regard
Mr. Syed Mohammad Wasi Rizvi

Plaintiff

Versus

1. **FEDERATION OF PAKISTAN**
Through Secretary, Ministry of Commerce
Block-A, Pakistan Secretariat
Constitutional Avenue, Islamabad
2. **STATE BANK OF PAKISTAN**
Through its Head of Foreign Exchange Operation Department
I.I. Chundrigar Road
Karachi
3. **UMER AHMED**
Deputy Director of State Bank of Pakistan
Foreign Exchange Operation Department
I.I. Chundrigar Road,
Karachi
4. **MCB BANK LIMITED**
MCB Tower, I.I. Chundrigar Road,
Karachi
5. **ADREES AHMED**
Joint Director of Adjudication (Pakistan, The Northern Areas of Gilgit
Baltistan and Territories of Azad Jammu and Kashmir)
Foreign Exchange Adjudication Department,
4th Floor, State Bank of Pakistan, SBPSC (Bank)
Multan

Defendants

SUIT FOR DECLARATION, CANCELLATION, DAMAGES AND

INJUNCTION

Karachi

Dated: 29/12/2022


COUNSEL FOR THE PLAINTIFF



Order Sheet
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 2006 of 2022

Date	Order with Signature of Judge
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1. For orders on CMA No. 19631/2022 (Urgency) :
2. For orders on CMA No. 19631/2022 (Stay).

28.12.2022 :

Mr. Haider Waheed Advocate for the plaintiff
a/w Mr. Ahmed Masood Advocate.

1. Urgency granted.
2. The plaintiff-company has impugned show cause notices dated 17.10.2022 (pages 57 & 61), 10.11.2022 (page 65) and 01.12.2022 (page 71) issued to it by the Joint Director of Adjudication (Pakistan, the northern areas of Gilgit and Baltistan and the territories of Azad Jammu and Kashmir), Foreign Exchange Adjudication Department, State Bank of Pakistan, Multan. Through the impugned show cause notices, the plaintiff has been called upon by the above named Joint Director to show cause why penalty up to five times of the value of the goods mentioned therein should not be imposed upon it under Section 23-B(4) of the Foreign Exchange Regulation Act, 1947, for contravention of Section 12(1) of the said Act read with Foreign Exchange Rules, 1952, and Notification No.F.E.3/2001-SB dated 28.09.2001. The ground alleged in the impugned show cause notices is that the plaintiff did not repatriate the export proceeds of the shipments listed in the impugned notices within the prescribed period which is a contravention of Section 12(1) *ibid* and the aforesaid Notification, and as such is punishable under Section 23-B *ibid*. It is urged that the impugned show cause notices are not only *malafide*, but are also *coram non judice* as under Section 23(8)(b) of the Foreign Exchange Regulation Act, 1947, a Joint Director of Adjudication may deal with a case where the amount or value involved in any contravention of Section 23(7)(a) of the said Act does not exceed Rs.20,000.00. Without prejudice and in addition to his above submission, learned counsel submits that the plaintiff is willing to face the proceedings provided the same are initiated by the competent authority ; and, the plaintiff is also willing to pay / deposit the remaining export proceeds in accordance with law. He states that about 50 to 60 percent of the export proceeds have already been deposited by the plaintiff and the remaining amount is not being accepted by the defendants in view of the impugned show cause notices.



The plaintiff is directed to join the above named Joint Director of Adjudication as a defendant in the present Suit and to file amended title within three (03) days. Upon filing the amended title, issue notice to the defendants as well as to learned DAG. Counter affidavits and rejoinders to be filed and exchanged by the parties before the next date of hearing. Subject to deposit of cheque(s) for the amount equivalent to the unpaid export proceeds with the Nazir of this Court by the plaintiff within seven (07) days, which cheque(s) shall not be cashed without permission of this Court, no coercive action shall be taken against the plaintiff in pursuance of the impugned show cause notices. To be listed on 18.01.2023.

Nazir
Starbar
(S)



By Abideen Akhtar
Judge