JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT

W.P No.525 of 2026

M/s DIPLOMATS DUTY FREE (PVT.) LTD

Versus

Federation of Pakistan and others.

Date of hearing	**16.06.2026**
Petitioner by:	**Mr. Sikandar Naeem Qazi, Advocate.**
Respondent No.1 by:	**Mr. Rashid Hafeez, Additional Attorney General and Mr. Asif Khan Jadoon, Assistant Attorney General for Pakistan.**

SARDAR MUHAMMAD SARFRAZ DOGAR, CJ: Through the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner (M/s Diplomats Duty Free (Pvt.) Ltd.) assails the Speaking Order passed by the Federal Minister for Commerce, whereby the Petitioner's review application seeking import authorization for 812 cases of assorted liquor (Invoice No. DIPL-010, dated 17.07.2024 valued at USD 23,756) was "Regretted"**.** The petitioner prayed as follows:-

a. Declare that the impugned speaking order passed by Respondent No.2 is without lawful authority, having been issued in non-compliance with the directions of this Hon'ble Court and in disregard of the governing statutory and regulatory framework, and is therefore liable to be set aside;

b. Set aside the impugned speaking order on the ground that it ignores statutory provisions, subordinate legislation, and established regulatory instructions governing diplomatic bonded warehouses, and proceeds on an erroneous application of the Import Policy Order, 2022;

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c. Declare that the petitioner, being a duly licensed diplomatic bonded warehouse under section 13 of the Customs Act, 1969, is governed by a special statutory regime including Rule 333 of the Customs Rules, 2001, Customs General Order No.12 of 2002, and the Ministry of Commerce Office Memorandum dated 23.09.1992, and that the Import Policy Order, 2022 cannot be applied so as to nullify the said regime;

d. Direct the Respondents to permit warehousing/in-bounding of the subject consignment in the Petitioner's licensed bonded warehouse, in accordance with law and subject to the statutory safeguards provided under the Customs Act, 1969, and the Rules framed thereunder;

e. Grant any other relief deemed just, proper and equitable in the circumstances of the case.

2. Briefly stated, the facts necessary for the disposal of the instant petition are that the petitioner has been operating lawfully since long as a licensed private bonded warehouse under Section 13 of the Customs Act, 1969, holding License No. PWL-01/2001 valid till July 31, 2027. In July 2024, the petitioner arranged the import of 812 cases of alcoholic beverages, valued at USD 23,756. Upon arrival of the vessel at Karachi Port, the petitioner applied to the Ministry of Commerce on August 9, 2024, for the issuance of an import authorization as required under Rule 333(a) of the Customs Rules, 2001. However, the Cabinet Committee for Relaxation of Import/Export Related Prohibitions/Restrictions, in its meeting held on November 28, 2024, declined to allow the release of the consignment. This decision was formally communicated via a rejection letter dated January 1, 2025, which alleged a violation of Serial No. 14, Appendix-A of the Import Policy Order, 2022. Being aggrieved by this unilateral rejection, the petitioner initially invoked the constitutional jurisdiction of this Court in Writ Petition No. 3146 of 2025, which was disposed of by this Court vide order dated September 29, 2025, remanding the matter to the Ministry of Commerce with directions to afford a personal hearing to the petitioner and all concerned

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departments, and to pass a reasoned speaking order strictly in accordance with law within 30 days. In purported compliance with these judicial directions, the Minister-in-Charge of the Commerce Division conducted a hearing on October 30, 2025, which was attended by legal counsel for the petitioner and representatives from the Federal Board of Revenue and the Ministry of Foreign Affairs. The Minister-in-Charge subsequently issued the impugned Speaking Order, regretting/rejecting the petitioner's review application on the grounds that the Ministry of Commerce Office Memorandum dated September 23, 1992, stood implicitly repealed by the Import Policy Order, 2022, and that the import of alcoholic beverages remains absolutely banned under Serial No. 14, Appendix-A of the said Policy. By filing the instant petition, the petitioner has once again approached this Court to challenge the legality of this Speaking Order.

3. While reiterating the grounds, learned counsel for the petitioner contended that the petitioner is a duly licensed Diplomatic Bonded Warehouse operating under Licence No. PWL-01/2001 issued under section 13 of the Customs Act, 1969, and has lawfully been carrying on its business under a special statutory regime governing diplomatic bonded warehouses. He submitted that the licence remains valid and subsisting and authorizes the petitioner to import, warehouse and supply dutiable goods, including alcoholic beverages, exclusively to diplomatic missions and other entitled privileged persons under strict customs supervision.

4. Learned counsel further argued that the impugned speaking order proceeds on a fundamentally erroneous premise that the Import Policy Order, 2022 has superseded or displaced the special legal framework governing diplomatic bonded warehouses. According to him, the petitioner's operations are

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regulated not only by Section 13 of the Customs Act, 1969 but also by Rule 333 of the Customs Rules, 2001, Customs General Order No.12 of 2002 and the Ministry of Commerce Office Memorandum dated 23.09.1992, all of which collectively constitute a special and self-contained regime that has remained operative for decades. It was further contended that the Ministry of Commerce lacked lawful authority to indirectly suspend or neutralize the petitioner's statutory licence by refusing import authorization. Learned counsel submitted that the impugned order effectively deprives the petitioner of the rights flowing from its valid licence without initiating any proceedings for suspension, cancellation or modification thereof in accordance with law.

5. Learned counsel further maintained that the respondents failed to appreciate the controlled and restricted nature of the diplomatic bonded warehouse regime. While referring to Clauses 21, 22 and 37 of Customs General Order No.12 of 2002, he submitted that sales from diplomatic bonded warehouses are confined exclusively to entitled diplomatic and privileged persons, subject to comprehensive customs supervision, audit, record maintenance and inspection. He argued that the concerns regarding misuse, diversion or circulation of alcoholic beverages in the local market stand adequately addressed through the existing regulatory framework and, therefore, the refusal of authorization is based upon mere conjecture and speculative apprehensions.

6. The learned counsel next argued that the impugned order suffers from wrong interpretation and misapplication of the Import Policy Order, 2022. According to him, the respondents failed to appreciate the legal distinction between warehousing of goods under customs custody and clearance of goods for home consumption. The petitioner's counsel

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highlights that the transshipment and warehousing of *spirits* are expressly governed by Rule 333(a) of the Customs Rules, 2001, which carves out a specific statutory exception in favor of diplomatic bonded warehouses and diplomatic missions. It is argued that under the established customs machinery, "in-bonding" is merely a deferred-duty storage mechanism and does not constitute "importation for home consumption". The issue of trade prohibition under the Import Policy Order, 2022 only arises at the stage of "ex-bonding" (clearance for home consumption) under Section 104 of the Customs Act, 1969. Because all ex-bonded clearances are strictly limited to entitled diplomatic personnel on the basis of exemption certificates issued by the Ministry of Foreign Affairs, the general trade ban on alcoholic beverages is never triggered.

7. It has been further argued that Section 84 of the Customs Act, 1969 expressly permits warehousing of dutiable goods in a licensed bonded warehouse and does not authorize refusal of warehousing merely because import authorization is pending or disputed. Learned counsel submitted that the continued detention of the consignment at the port, despite the petitioner being a licensed bonded warehouse operator, amounts to an unlawful exercise of power and frustrates the statutory scheme governing bonded warehousing.

8. Learned counsel also assailed the finding recorded in the impugned order regarding the Office Memorandum dated 23.09.1992. He submitted that the respondent incorrectly treated the said Memorandum as having become redundant or impliedly repealed. According to him, no notification, executive order or statutory instrument has ever withdrawn or superseded, the said Memorandum, and in the absence of an express repeal, it continues to hold the field. He further submitted that the Ministry itself had consistently acted upon

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the said framework in processing requests relating to diplomatic bonded warehouses, thereby acknowledging its continued applicability.

9. It has been further contended by learned counsel for the petitioner that the respondents failed to apply the well-recognized principle that a special statutory framework prevails over a general policy instrument. He argued that the Import Policy Order, 2022, being a general regulatory instrument, could not override the special regime established under the Customs Act, 1969 and the subordinate legislative and executive instruments specifically governing diplomatic bonded warehouses. Furthermore, the impugned order unlawfully elevates a general policy framework above a special statutory arrangement, rendering the latter redundant.

10. Learned counsel lastly submitted that the impugned order is arbitrary, unreasonable, based upon misdirection in law, non-consideration of relevant material and consideration of irrelevant factors. He argued that the respondents failed to correctly appreciate the statutory framework governing diplomatic bonded warehouses and thereby exercised their discretion in a manner inconsistent with law. He, therefore, prayed that the impugned speaking order be declared unlawful and set aside with a direction to the respondents to grant the requisite import authorization and facilitate release of the consignment in accordance with the diplomatic bonded warehouse regime and the applicable law.

11. Conversely, the learned law officers appearing on behalf of the respondent-Federation of Pakistan opposed the petition and supported the impugned speaking order. It has been submitted that the petitioner has no vested or absolute right to import alcoholic beverages merely on the basis of

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possession of a bonded warehouse licence. It is contended that a warehouse licence and an import authorization operate in distinct legal spheres and fulfillment of one requirement does not dispense with compliance of the other. Learned counsel argued that import into Pakistan is governed by the provisions of the Imports and Exports (Control) Act, 1950 and the Import Policy Order, 2022 framed thereunder. He submitted that every import transaction must conform to the prevailing import policy and that no person can claim exemption from the operation of the Import Policy Order unless such exemption is expressly provided by law. According to him, the petitioner cannot rely upon a bonded warehouse licence to circumvent the restrictions and conditions prescribed under the import control regime. It was contended that the Ministry of Commerce is the competent authority entrusted with regulation of imports and possesses the lawful authority to determine whether a proposed import falls within the parameters of the applicable import policy. The impugned decision, therefore, represents a lawful exercise of statutory discretion and does not warrant interference in constitutional jurisdiction. Learned law officer further submitted that the Office Memorandum dated 23.09.1992 relied upon by the petitioner does not confer any perpetual or indefeasible right to import alcoholic beverages. He argued that the said Memorandum was merely an administrative arrangement issued in a particular policy context and cannot override, amend or supersede subsequent statutory instruments, including the Import Policy Orders issued from time to time under the Imports and Exports (Control) Act, 1950. According to the respondent, the Import Policy Order, 2022 is the latest and governing policy instrument regulating imports into the country. To the extent that any previous executive instructions, circulars, memoranda or administrative practices are inconsistent with the current

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import policy framework, the latter must prevail and previous shall stand superseded. Learned law officer submitted that the petitioner's entire case is premised on obsolete administrative instructions which cannot be enforced in derogation of the prevailing statutory policy. It was further argued that Customs General Order No.12 of 2002 and the Customs Rules, 2001 merely regulate the manner in which goods may be warehoused, accounted for and supplied after lawful importation. These instruments do not independently create a right to import goods whose importation is restricted, prohibited or subject to prior authorization under the import control regime. The learned law officer maintained that the distinction sought to be drawn by the petitioner between importation and warehousing is misconceived. He submitted that before any goods can be deposited in a bonded warehouse, their import must first be lawful and compliant with the applicable import policy. In the absence of valid authorization from the competent authority, the petitioner cannot insist upon warehousing of the goods as a matter of right. It was also contended that alcoholic beverages constitute a highly regulated category of goods involving considerations of public policy, regulatory control and international obligations. The competent authorities are therefore entitled to adopt a cautious approach while processing requests for import authorization relating to such products. Learned law officers submitted that policy choices in matters of trade and import regulation fall primarily within the executive domain and are ordinarily not amenable to judicial review unless shown to be patently unlawful, mala fide or without jurisdiction. While referring to the impugned speaking order, learned law officers argued that the matter had been reconsidered strictly in compliance with the directions previously issued by this Court, and the petitioner was afforded an opportunity of a hearing, all relevant

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material was examined and a detailed, reasoned and speaking order was thereafter passed. The requirements of due process and fair hearing having been fully satisfied, no procedural illegality can be attributed to the impugned decision. The law officers further contended that the petitioner cannot invoke the doctrines of legitimate expectation or past practice against a statutory policy framework. Even if import authorizations had been granted in the past, no estoppel can operate against the law and no expectation can arise contrary to the prevailing legal regime. According to him, each request for import authorization is required to be assessed independently in light of the policy applicable at the relevant time. Lastly, it has been submitted that the petitioner had failed to demonstrate any violation of a vested legal right, jurisdictional defect, mala fide, arbitrariness or patent illegality warranting interference under Article 199 of the Constitution. Finally, prayed for the dismissal of the instant petition.

12. I have heard the arguments advanced by learned counsel for the parties and have perused the record with their able assistance.

13. The controversy involved in the instant petition lies within a narrow compass. Therefore, before proceeding further with the matter, it would be advantageous to examine the statutory and administrative framework governing diplomatic bonded warehouses. The petitioner is admittedly a licensee operating a private/manufacturing bonded warehouse under Section 13 of the Customs Act, 1969, which reads as under:-

> "13. Power to licence private warehouses.- (1) At any warehousing station, the Collector of Customs may, from time to time, licence private warehouses wherein dutiable goods may be deposited [3][without payment of customs-duty.]
>
> (2) Every application for a licence for a private warehouse shall be made in such form as may be prescribed by the Collector of Customs.

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> [4][(3) A licence granted under this Section may be cancelled by the Collector of Customs for infringement of any condition laid down in the licence or for any violation of any of the provisions of this Act or any rules made there under, after the licensee has been given proper opportunity of showing cause against the proposed cancellation].
>
> (4) Pending consideration whether a licence be cancelled under sub-section (3), the Collector of Customs may suspend the licence."

Section 13(1) expressly authorizes the Collector of Customs to licence private warehouses "*wherein dutiable goods may be deposited without payment of customs-duty*". More importantly, sub-sections (3) and (4) of section 13 prescribe a complete statutory mechanism for cancellation or suspension of such licence in the event of infringement of licence conditions or violation of the Customs Act or Rules made thereunder. Admittedly, no proceedings for suspension or cancellation of the petitioner's licence have ever been initiated. On the contrary, Respondent No.4/Collector of Customs, has expressly acknowledged that the licence continues to be remained valid. Consequently, the legal existence of the petitioner's warehouse and its entitlement to operate thereunder cannot be disputed.

14. Furthermore, Rule 333 of the Customs Rules, 2001, is a body of statutory subordinate legislation enacted by the Central Board of Revenue (now Federal Board of Revenue) in exercise of the powers conferred under Section 219 of the Customs Act, 1969, which specifically deals with goods not ordinarily permitted for transshipment. It states:-

> "**333**. Goods not permitted for transhipment.- The following goods shall not be allowed transshipment to up-country customs port or stations, namely:-(a) spirits, as defined in Chapter 22 of the First Schedule to Act, except imported by diplomatic bonded warehouse and diplomatic mission after obtaining import authorization from Ministry of Commerce."

The said provision is of considerable significance. Far from abolishing the regime of diplomatic bonded warehouses, the

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supra Rule expressly recognizes their existence and contemplates importation of *spirits* by diplomatic bonded warehouses subject to obtaining import authorization from the Ministry of Commerce. Had the legislative intent been to prohibit such imports altogether, there was no occasion to carve out a specific exception in favour of diplomatic bonded warehouses and diplomatic missions. This Rule, therefore, constitutes a clear statutory acknowledgement of the legality of imports by diplomatic bonded warehouses.

15. Likewise, the Ministry of Commerce itself, through Office Memorandum dated 23.09.1992, laid down the policy governing "*Import of Liquor by Diplomatic Bonded Warehouses*". The operative portion thereof states that:-

> "the Bonded warehouses may be allowed to import liquor on behalf of foreign diplomatic mission in Pakistan, diplomats or commissioners and also for ultimate consumption by the foreign privileged persons working in various organizations in Pakistan under agreement with their respective government with the Government of Pakistan."

The Memorandum further prescribes conditions requiring production of a valid licence for keeping liquor in bond, certified stock statements, duly attested invoices and other documentary safeguards. The significance of the Memorandum lies not merely in the permission granted thereunder but in the fact that it establishes a complete regulatory framework governing such imports. It is pertinent to mention here that the stance of Respondents that said Memorandum has been superseded is found unsubstantiated as the respondents have been unable to point out any notification, statutory instrument or executive order expressly rescinding or withdrawing the said Memorandum.

16. The same position emerges from Customs General Order No.12 of 2002. Chapter VIII thereof, dealing with "Special Exemption", specifically recognizes diplomatic bonded

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warehouses established under section 13 of the Customs Act, 1969. Clause 21 provides:-

> "Licensees of diplomatic bonded warehouses established under Section 13 of the Customs Act, 1969 shall open foreign currency accounts in their respective names; and entitled persons/organizations etc., shall make payment for purchase from the warehouses through cash, credit card, cross cheques, pay orders or drafts issued in favour of the licensees from their foreign currency accounts maintained in Pakistan."

The aforesaid provision is a clear acknowledgment that diplomatic bonded warehouses are a continuing component of the customs framework and are intended to make sales to entitled persons and organizations. More importantly, Clause 22(b) of the same General Order expressly provides that expatriate employees and other specified foreign nationals *"would also be allowed to import directly or purchase from duty free shops/diplomatic bonded warehouses their requirements of alcohol, cigarettes and food stuff..."*. However, the respondents have placed considerable reliance upon the concluding sentence of Clause 22(b), that *"import of alcoholic beverages will, however, be subject to Import Policy Order."* The said stipulation cannot be read in isolation as it merely subjects the import process to the applicable policy requirements; it does not abolish diplomatic bonded warehouses, nullify licences granted under section 13 of the Customs Act, 1969, or repeal the special mechanism recognized by Rule 333 and the Office Memorandum dated 23.09.1992.

17. The matter is put beyond any doubt by the communication dated 20.09.2022 issued by the Ministry of Foreign Affairs. The said communication records that foreign missions and diplomatic personnel enjoy privileges and immunities under the United Nations Convention on Privileges and Immunities, 1946, the Vienna Convention on Diplomatic Relations, 1961, the Vienna Convention on Consular Relations, 1963, the United Nations Privileges and Immunities Act, 1948

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and the Diplomatic and Consular Privileges Act, 1972. Most significantly, paragraph 7 thereof recognizes the continuing role of diplomatic bonded warehouses in the following terms:-

> "The Bonded Warehouses provide the means through which Foreign Missions and their members obtain relief from the imposition of taxes and duties on their official and personal purchases of certain commodities. Such commodities generally include hard drinks, soft drinks, tobacco and fragrances etc."

The Ministry of Foreign Affairs further acknowledges that:-

> "the only mechanism, apart from import, through which a Foreign Mission or its members can obtain an exemption from such charges is by purchasing products through approved Bonded Warehouses on the basis of Exemption Certificates issued by the Ministry of Foreign Affairs."

The above declaration emanates from the very Ministry entrusted with implementation of Pakistan's diplomatic obligations. It unmistakably further demonstrates that diplomatic bonded warehouses continue to function as a recognized mechanism for extending privileges and immunities to foreign missions and diplomats stationed in Pakistan.

18. The foregoing discussion leads to the inescapable conclusion that bonded warehouses operate under a distinct and special statutory framework, which regulates their establishment, functioning and obligations. Consequently, they constitute a separate class recognized by law and cannot be placed on the same footing as, or equated with, general or ordinary importers.

19. This Court, now has to evaluate the legality of impugned speaking order while keeping the discussed existing statutory regime qua bonded warehouses in juxtaposition, therefore, before proceeding further, it is apropos to reproduce the impugned Speaking Order, which is as under in verbatim:-

> ***SPEAKING ORDER***
>
> ***BACK GROUND***
>
> *The instant matter pertains to the request for grant of import authorization for liquor imported by M/s Diplomatic Duty Free*

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(Pvt.) Ltd. The applicant submitted its request in August 2024 ***(Annex-I)***

2. That the request involved import of goods falling under the prohibitions prescribed in the Import Policy Order (IPO), 2022, the case was placed before the Cabinet Committee for Relaxation of Import/Export Related Prohibitions/Restrictions for consideration. Upon consideration, the Committee decided not to allow the release of the imported consignment ***(Annex-II)***.

3. That the applicant aggrieved by the said decision, filed a petition before the Honourable Islamabad High Court, seeking a review of its application for import authorization. The Honourable Chief Justice, vide order dated 29th September 2025 ***(Annex-III),*** *directed the Ministry of Commerce to review the petitioner's application after hearing all concerned and to decide the matter through a speaking order, in accordance with law.*

PROCEEDINGS

4. That in compliance with the directions of the Islamabad High Court, Islamabad, a hearing was conducted by the Minister-in-Charge on 30th October 2025. The petitioner, represented through legal counsel, appeared and presented arguments. Representatives from the Federal Board of Revenue (FBR) and the Ministry of Foreign Affairs (MoFA) also attended the proceedings.

5. That the petitioner was afforded a full opportunity to present the case. Through counsel, it was submitted that M/s Diplomatic Duty Free (Pvt.) Ltd. is a licensed operator of a diplomatic bonded warehouse under Section 13 of the Customs Act, 1969. It was contended that, since 2012, the Ministry of Commerce had consistently granted import authorizations for liquor under its Office Memorandum (O.M.) dated 1992 ***(Annex-IV)***.

6. That the petitioner further argued that in terms of Rule 5(1)(b) of the Import Policy Order, 2022, the prohibitions in Appendix-A do not apply to goods imported for foreign missions and diplomats. Therefore, the imported liquor, being exclusively for sale to diplomatic missions, diplomats, and privileged persons, should be exempt from the restriction.

7. That it was further contended that under the diplomatic bonded warehouse scheme, there exists no requirement for a separate import authorization, particularly where imports are intended solely for consumption by foreign missions and diplomats.

8. That the petitioner also submitted that in 2022, the Cabinet Committee had allowed the release of a similar consignment on the same grounds, but in 2024, the Committee declined authorization for the current consignment, which the petitioner considered discriminatory.

9. That the petitioner contended that currently the consignment is pending at Karachi Port, and the importer is suffering irreparable loss on account of demurrage and detention charges and loss of sale due to their inability to fulfill the commitments to the foreign missions and diplomats, and prayed for the clarification on the matter be issued.

10. That the petitioner insisted to issue import authorization on the basis of past practice as allowed under Ministry of Commerce' O.M dated 1992.

11. That the petitioner restrained from considering the request for one-time condonation under the applicable laws and policy.

FINDINGS

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12. That upon consideration of the petitioner's submissions and examination of the record, it is evident that the Office Memorandum of 1992, issued under the Import Trade Control Order, 1991, permitted bonded warehouses to import liquor on behalf of diplomats. However, over time, the Import Policy Order has been revised and updated to align with policy changes and evolving regulatory requirements. The Import Policy Order, 2022, is presently in vogue and regulates all imports accordingly.

13. That as per the IPO 2022, only foreign diplomatic missions in Pakistan are eligible for exemptions under the Diplomatic and Consular Privileges Act, 1972 (IX of 1972). Consequently, the 1992 Office Memorandum stands repealed and has no operative effect under the current import regime.

14. That as per Serial No. 14 of Appendix-A, of the Import Policy Order, 2022, import of alcoholic beverages and spirits (excluding ethyl alcohol of industrial grade) including brewing and distilling dregs and waste, wine lees and argol, is banned. Therefore, it confirms that the petitioner has violated the respective provision of the IPO, 2022 ***(Annex-V)****.*

15. That it is further noted that the petitioner's earlier request, dated 7th July 2022, was allowed by the Cabinet Committee for Relaxation of Import/Export Related Prohibitions as a one-time condonation of restriction, under Paragraph 20 of the Import Policy Order, 2022, subject to certain specified conditions ***(Annex-VI)****. The said relaxation was exceptional in nature and cannot be construed as establishing a recurring right to similar authorizations in the future.*

ORDER

16. Petitioner heard, record perused and examined. It is evident that the instant case pertains to clear violation of the provisions of the Import Policy Order, 2022. However, the petitioner restrained to request for considering the case as a one-time condonation in exercise of the power conferred under Section 3(1) of the Imports and Exports (Control) Act, 1950, as amended by the Imports and Exports (Control) (Amendment) Act, 2025. Therefore, the instant request of the petitioner to review the application is hereby ***"Regretted"****.*

17. This order is passed in compliance with the directions of the Hon'ble Islamabad High Court, Islamabad, and in accordance with the applicable laws, rules, and policy framework regulating imports in Pakistan.

JAM KAMAL KHAN
(Federal Minister for Commerce)"

20. A careful reading of the impugned speaking order shows that the Minister-in-Charge proceeded on the assumption that the Office Memorandum dated 23.09.1992 stood repealed merely because the Import Policy Order, 2022 presently occupies the field of import regulation. As discussed above, the conclusion, however, is unsupported by any express statutory provision,

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notification or executive instrument placed on record. The impugned order identifies no legal instrument whereby the Office Memorandum of 1992 was withdrawn, rescinded, superseded or declared inoperative.

21. This Court observes that under Sections 83 and 104 of the Customs Act, 1969, goods placed in a bonded warehouse are not integrated into the domestic commerce of Pakistan. The legal act of importation, which triggers the application of trade prohibitions and the levy of duties, is only finalized when a Goods Declaration for "ex-bonding" is filed for home consumption. This legal distinction is supported by supreme judicial precedent. In the landmark judgment of the Sindh High Court in "*Collector of Customs v. M/s A.R. and Company"*, **(2022 PTD 1408)** it was categorically observed:-

> "In-bonding and ex-bonding in the Diplomatic Bonded Warehouse involve intricate and complex procedure, which under normal circumstances make it impossible for the importer to cause misappropriation, unless the officials of the customs are also involved and there is no denial to this fact that at all time the goods in the Diplomatic Bonded Warehouse remain in actual physical possession and custody of the customs authorities."

Consequently, because the goods are stored securely under customs custody and can only be cleared for home consumption (ex-bonded) upon the presentation of valid diplomatic exemption certificates issued by the Ministry of Foreign Affairs, the physical entry of the goods into the bonded warehouse does not constitute a violation of the commercial trade ban under the Import Policy Order, 2022. As such, the reasoning adopted by the Minister-in-Charge also overlooks the distinction between importation for home consumption and warehousing under customs control. There is no denial to the fact that goods deposited in a bonded warehouse do not enter the domestic stream of commerce. They remain under the custody, supervision and control of customs authorities and are dealt with in accordance with the statutory

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conditions governing bonded warehousing. The entire scheme of the Customs Act, 1969 recognizes this distinction. The purpose of diplomatic bonded warehouses is not to facilitate unrestricted circulation of goods within the local market but to regulate their storage and supply to a restricted and identifiable class of entitled persons. In this regard, this Court finds substance in the petitioner's contention that sales from diplomatic bonded warehouses are confined to foreign missions, diplomats and other privileged persons and are subject to extensive customs supervision. The respondents have not pointed out any material demonstrating misuse of the petitioner's licence, diversion of goods into the local market, breach of customs conditions or violation of any licensing requirement. In the absence of such material, the complete denial of import authorization effectively defeats the very purpose for which the licence was granted and has been continuously renewed by the competent customs authorities.

22. Furthermore, comprehending the nature of case, the discussion on foundational maxims of statutory interpretation is quite useful. In this regard, **firstly**, the maxim *generalia specialibus non derogant* translates to:- "*general provisions do not derogate from special provisions*". Where there is a conflict between a general law and a special law operating in the same field, the special law must prevail, as it is presumed that the legislature directed its attention to the specific subject matter in greater detail. In the present case, the Import Policy Order, 2022, represents the general law governing commercial trade and open-market imports into Pakistan. On the other hand, Section 13 of the Customs Act, 1969, read with Rule 333(a) of the Customs Rules, 2001, and Customs General Order (CGO) No. 12 of 2002, constitutes a highly specialized statutory and regulatory framework designed exclusively for the licensing, importation,

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and secure handling of diplomatic goods. Applying the maxim *generalia specialibus non derogant*, the general commercial ban on alcoholic beverages under Serial No. 14 of the Import Policy Order, 2022 cannot override or defeat the special legal pathway established for licensed diplomatic bonded warehouses. This is consistent with the decision of the Supreme Court of Pakistan in "*Gulistan Textile Mills Ltd v. Soneri Bank Limited"* **(PLD 2018 SC 322)**, which held that:-

> "the special law would take precedence over the general law (generalia specialibus non derogant). The Ordinance is a special law, and therefore its specific provisions will displace the general law which shall be deemed to be inapplicable."

Reference can also be made to case law titled as "Sui Northern Gas Pipelines Ltd (SNGPL), Islamabad v. S.K.Pvt Limited" (**2025 SCMR 570 Supreme Court**).

23. Secondly, the maxim *expressio unius est exclusio alterius* means:- "*the express mention of one thing excludes all others*". In Rule 333(a) of the Customs Rules, 2001, the legislature has listed *spirits* as goods generally prohibited for transshipment, but has explicitly carved out an exception for those "*imported by diplomatic bonded warehouse and diplomatic mission*". The specific and deliberate inclusion of "diplomatic bonded warehouses" within this exception indicates a clear legislative intent to treat these entities as a distinct, protected, and permissible category. It excludes them from the application of general transshipment and import prohibitions that apply to ordinary commercial importers.

24. Thirdly, the maxim *ut res magis valeat quam pereat* dictates that a statute or rule must be interpreted in a manner that gives it life, efficacy, and operation, rather than one that reduces it to a dead letter or redundancy. If this Court were to accept the respondents' interpretation that the general ban in the Import

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Policy Order, 2022, completely outlaws imports by diplomatic bonded warehouses, it would render Rule 333(a) of the Customs Rules, 2001, completely redundant, meaningless, and dead in law. Such a destructive interpretation is highly disfavored. This Court is bound to adopt a harmonious construction that preserves the validity and operation of both the Import Policy Order and the statutory Customs Rules, which is only possible by recognizing the special status of diplomatic bonded warehouses. Every word and provision should be meaningful and not render any part redundant, as words are never intended by the legislature to be meaningless. Reference in this regard can be made to case law titled as "Commissioner Inland Revenue, Zone-II, Large Taxpayers Unit, Lahore vs Coca Cola Export Corporation" (**2026 PTD 318 Lahore High Court Lahore**).

25. Furthermore, this Court must address the petitioner's accrued rights and the doctrine of *locus poenitentiae*. The petitioner has operated under valid statutory license since long, investing substantial capital, employing staff, and establishing long-term supply contracts with international suppliers.

26. The doctrine of *locus poenitentiae,* which refers to the power of receding until a decisive step has been taken, is a well-entrenched principle of administrative law in Pakistan. As laid down by the Supreme Court of Pakistan in *Pakistan through the "Secretary, Ministry of Finance v. Muhammad Himayatullah Farukhi"* (**PLD 1969 SC 407**) while an administrative authority has the power to undo or rescind its orders, this power is subject to the strict exception that once an order has been acted upon and has created valuable, vested rights in favor of an individual, it cannot be withdrawn or rescinded to their detriment. The Court held:-

> "The authority that has the power to make an order has also the power to undo it. But this is subject to the exception that where an

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> order has been passed by the authority and has been acted upon, and has created certain rights in favour of any individual, it cannot be withdrawn or rescinded to the detriment of those rights."

The petitioner, relying on the valid subsisting license and the consistent regulatory representations of the state, took decisive steps by opening Letters of Credit, executing commercial invoices, and importing the subject consignment. The sudden, arbitrary refusal to grant the import authorization, without any change in the primary legislation or the statutory rules, amounts to a retrospective destruction of these vested rights, which is patently unlawful and barred under the doctrine of *locus poenitentiae*.

27. Another important aspect of the matter is that the impugned speaking order also suffers from a fatal procedural defect. The diplomatic bonded warehouse regime is not a standard commercial trade activity; it is an administrative mechanism designed to implement Pakistan's international obligations under the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, ratified via the Diplomatic and Consular Privileges Act, 1972. The Ministry of Foreign Affairs (MoFA) is the primary organ of the state responsible for managing these diplomatic relations, determining quotas, and issuing the tax and duty exemption certificates that authorize purchases from the petitioner's warehouse. Under Rules 8 and 13 of the Rules of Business, 1973, when a case concerns more than one Division, or where a decision taken by one Division is likely to affect the transaction of business allotted to another, prior consultation and concurrence are mandatory. The Ministry of Commerce unilaterally proceeded to declare the 1992 Office Memorandum "repealed" thereby effectively dismantling the diplomatic supply chain without any formal, meaningful consultation with the Ministry of Foreign Affairs. The Supreme Court of Pakistan, in the celebrated case of *"Mustafa Impex, Karachi v. The Government of Pakistan*", (**PLD 2016 SC 808**)

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established that the Rules of Business, 1973, are mandated and strictly binding upon the government. The apex court held:-

> "The Rules of Business are binding on Government and any deviation would render the transaction of business illegal... Following the Rules of Business, 1973 was mandatory and binding on the Government and a failure to follow them would lead to an order lacking any legal validity."

As the Ministry of Commerce bypassed the mandatory consultative procedures with the Ministry of Foreign Affairs, hence, the impugned speaking order suffers from procedural irregularity.

28. It is yet another important aspect of the matter that the respondents have principally relied upon Serial No.14 of Appendix-A to the Import Policy Order, 2022, whereby "*Alcoholic beverages and spirits (excluding ethyl alcohol of industrial grade)*" have been included in the list of goods ordinarily banned for import. The reliance, however, is only partial and does not take into account the entirety of the statutory scheme as the Paragraph 5(1) of the Import Policy Order, 2022 provides that:-

> "Goods specified in Appendix-A are banned for import. This ban, however, shall not be applicable on-"
>
> "(b) any goods which are exempt from customs duties on importation by the foreign diplomatic missions in Pakistan under the Diplomatic and Consular Privileges Act, 1972 (IX of 1972)."

Thus, the Import Policy Order itself creates an express exception in favour of goods imported by foreign diplomatic missions enjoying privileges under the Diplomatic and Consular Privileges Act, 1972. When paragraph 5(1)(b) of the Import Policy Order, 2022 is read in conjunction with section 13 of the Customs Act, 1969, Rule 333(a) of the Customs Rules, 2001, the Ministry of Commerce Office Memorandum dated 23.09.1992, Customs General Order No.12 of 2002 and the communication dated 20.09.2022 issued by the Ministry of Foreign Affairs, a coherent

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and consistent legal framework unmistakably emerges. While Serial No.14 of Appendix-A places alcoholic beverages and *spirits* in the category of goods ordinarily prohibited for import, paragraph 5(1)(b) expressly excludes from the operation of such prohibition "*any goods which are exempt from customs duties on importation by the foreign diplomatic missions in Pakistan under the Diplomatic and Consular Privileges Act, 1972.*" The said exception is neither incidental nor redundant; rather, it embodies Pakistan's domestic and international obligations towards foreign diplomatic missions and their personnel. The Office Memorandum dated 23.09.1992 specifically provides that diplomatic bonded warehouses may be allowed to import liquor on behalf of foreign diplomatic missions, diplomats and other privileged foreign persons, subject to prescribed safeguards and regulatory conditions. Rule 333(a) of the Customs Rules, 2001 further reinforces the same position by expressly permitting import of *spirits* by diplomatic bonded warehouses and diplomatic missions after obtaining import authorization from the Ministry of Commerce. Likewise, Customs General Order No.12 of 2002 recognizes diplomatic bonded warehouses established under section 13 of the Customs Act, 1969 and envisages supply of alcohol and other specified goods to entitled persons through such warehouses. The Ministry of Foreign Affairs, through its communication dated 20.09.2022, has also categorically acknowledged that bonded warehouses constitute the mechanism through which foreign missions and their members obtain exemptions from duties and taxes on commodities including hard drinks in pursuance of privileges conferred under international conventions and the Diplomatic and Consular Privileges Act, 1972. Thus, none of the aforementioned instruments operates in isolation; rather, each complements and reinforces the other. The interpretation adopted in the impugned speaking order, however, isolates Serial No.14 of Appendix-A from the statutory exception

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contained in paragraph 5(1)(b) and disregards the entire regulatory framework governing diplomatic bonded warehouses. Such an interpretation not only renders Rule 333(a), the Office Memorandum dated 23.09.1992 and Customs General Order No.12 of 2002 largely nugatory, but also deprives paragraph 5(1)(b) of any meaningful effect. Hence, the Respondent No.2 has mis-interpreted the same, which interpretation cannot be sustained in the eyes of law.

29. Furthermore, it is also worth mentioning here that a speaking order must not only state conclusions but must also demonstrate a rational nexus between the applicable law and the facts under consideration. The impugned order falls short of this standard. It is settled by now that the court as well as the public functionaries are required to pass speaking orders to redress grievances of citizens, with reasons manifesting by itself that the court applied its mind to issues involved in the case, which has not been done in the present case, hence the impugned order lacks the said basic ingredients of a valid order. Reliance is placed on judgments reported as Secretary Ministry of Health, Government of Pakistan, Islamabad and others versus Dr. Rehana Hameed and others **(2010 PLC (CS) 1075 (SC) = 2010 SCMR 511)**, Fasih-ud-Din Khan and others versus Government of Punjab and others **(2010 SCMR 1778)**, Messrs United Woolen Mills Ltd. Workers' Union versus Messrs United Woolen Mills Ltd. **(2010 PLC (CS) 246 (SC) = 2010 SCMR 1475)**, Government of Sindh through Land Acquisition Officer and others versus Muhammad Juman and another **(2009 SCMR 1407)**.

30. For what has been discussed above, the instant writ petition is **allowed**. The impugned Speaking Order dated October 30, 2025, passed by the Minister-in-Charge for the Commerce Division, is hereby **set aside** and declared to be without lawful authority and of no legal effect. Since, the petitioner being a

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licenced diplomatic bonded warehouse is governed by a special statutory regime, therefore, the *respondent Ministry of Commerce is directed to* ***issue the requisite Import Authorization*** *for the petitioner's consignment comprising 812 cases of alcoholic beverages, imported under Invoice No. DIPL-010 and Bill of Lading No. SOCJEAKHI2400323,* ***forthwith***, under intimation to Deputy Registrar (Judicial) of this Court.

(**CHIEF JUSTICE**)

S*hamroz* ***Ali******

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