

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Mohammad Abdur Rahman

Mr. Justice Dr. Shah Nawaz Memon

Spl. Customs Reference Applications No. 642 & 643 of 2020

The Collector of Customs, Model Customs Collectorate of
Appraisalment & Facilitation (West), Karachi

Versus

M/s Zarif Khan & Sons

Date of hearing: 21.09.2026

Date of decision: 29.09.2026

Applicant: Through Mr. Khalid Rajpar, Advocate.

Respondent: Through Ms. Dil Khurram Shaheen, Advocate.

J U D G M E N T

DR. SHAH NAWAZ MEMON, J.: — These two connected reference applications, maintained under section 196 of the Customs Act, 1969 (hereinafter referred to as “the Act”), assail a common judgment of the Customs Appellate Tribunal which set aside, in its entirety, the confiscation of two consignment vehicles each of whose chassis frames a forensic report had found to bear a tampered and re-punched serial number. The question, and one which recurs before this Court, is whether a vehicle so found may be released to the importer upon grounds that do not engage the correctness of that forensic finding at all. For the reasons which follow, we are respectfully of the view that it may not.

I. THE CONTROVERSY

1. The applicant Collectorate, Model Customs Collectorate of Appraisalment & Facilitation (West), Karachi, assails a common judgment dated 19.08.2020 passed by the Customs Appellate Tribunal, Bench-II, Karachi in Customs Appeal No. K-594/2018, impugned in Spl. Customs Reference Application No. 642 of 2020, and Customs Appeal No. K-595/2018, impugned in Spl. Customs

Reference Application No. 643 of 2020, both filed by the respondent, M/s Zarif Khan & Sons, under section 194-A of the Act. By the impugned judgment the learned Tribunal held Order-in-Original No. 1094109 dated 30.03.2018 and Order-in-Original No. 1094121 of the same date to be “null and void ab-initio”, set the same aside, and directed that both vehicles be released unconditionally, together with a delay-detention certificate. As the two references arise out of a single judgment and raise identical questions, they are disposed of together by this common judgment.

2. Mr. Khalid Rajpar, learned counsel for the applicant Collectorate, and Ms. Dil Khurram Shaheen, learned counsel for the respondent, have been heard, and the record has been perused. Mr. Rajpar contended that as per FSL report, the vehicle is tampered and is covered by several judgments of this Hon’ble court wherein outright confiscation was restored and the learned tribunal’s orders are set aside. On the other hand, Ms. Dil Khurram Shaheen did not controvert such submissions.

II. FACTS OF THE CASE

3. The respondent filed two Goods Declarations on 23.10.2017, bearing Nos. KAPW-HC-68867 (the subject of SCRA 642 of 2020) and KAPW-HC-68881 (the subject of SCRA 643 of 2020), each declaring a used Hino Prime Mover Truck classifiable under PCT heading 8701.2040. Physical examination found each consignment to be, in truth, an old and used Hino truck of PCT heading 87.04, an item whose import stands banned under the Import Policy Order, 2016, fitted with an additional fifth wheel and fish plate to pass it off as a prime mover. Each vehicle was thereupon referred to the Forensic Division, Sindh Police, Karachi, for examination of its chassis, and the examination report in each case recorded that the number engraved on one chassis frame, though matching the number declared, was upon chemical treatment found to have been

stamped, and that a different number, deliberately ground off, resurfaced under the same chemical process on the other frame.¹

4. Show cause notices were accordingly issued, and the Adjudicating Officer, having received and rejected the respondent's plea that the vehicles were genuine prime movers, passed Order-in-Original No. 1094109 dated 30.03.2018 in respect of the first vehicle and Order-in-Original No. 1094121 of the same date in respect of the second, confiscating both under clause (9) of section 156(1) of the Act on the footing that each was a banned and tampered vehicle mis-declared so as to circumvent Para 9(ii)(5) of the Import Policy Order, and that the first proviso to Para-6 of Appendix-E thereof withdraws even the facility of re-export from a tampered-chassis vehicle. The respondent's appeals, Customs Appeal Nos. K-594/2018 and K-595/2018, were entertained together and disposed of by the impugned common judgment.

III. THE IMPUGNED ORDER

5. The learned Tribunal did not, as a matter distinct from the rest of the case, examine whether the forensic finding of tampering was itself correct or had been rebutted. Four strands run through its reasoning. First, that the examination report was self-contradictory, since it recorded on the one hand that "no other number has been deciphered under the present chassis number" and, on the other, that a different set of digits had become "slightly visible" on the other frame after chemical treatment, a state of affairs which a learned Single Judge of this Court was said to have found insufficient in an unreported order in C.P. No. D-2280 of 2010. Second, that the show cause notice was not a document comprehensively supported by reference to a Technical Committee, and that a void notice begets a void order. Third, that once the respondent had tendered its documents, including a pre-shipment certificate, the burden shifted to the department to lead "incontrovertible evidence" in rebuttal, which had not been done.

¹The examination report of the Forensic Division, Sindh Police, Karachi, reproduced in the respective Orders-in-Original, records, in respect of each vehicle, that the chassis serial on one frame, though matching the number declared and engraved on the body, "is stamped", and that the chassis digits on the other frame, not visible before chemical treatment, "have been slightly visible after chemical process."

Fourth, that a judgment of this Court in *M/s Baig Enterprises* had disapproved the department's practice of treating old and used Hino prime movers as banned goods.

6. On this reasoning the learned Tribunal held that "all orders passed during the hierarchy of Customs stand nullified and void ab-initio", set them aside, and directed the unconditional release of both vehicles together with a delay-detention certificate. At no point does the order record a finding that the chassis numbers were not, in fact, tampered, nor does it record that the respondent placed before any forum a manufacturer's confirmation, a further forensic examination, or any other material capable of displacing the examination report.

IV. THE QUESTION

7. The applicant Collectorate has proposed five questions, touching classification, the inference of *mala fide* intent, the tampered chassis, the duty of true declaration under section 79(1), and the sufficiency of the Tribunal's reasoning. Questions (A), (B), (D) and (E) do not survive independently of the answer to question (C), which alone raises the question of law this case requires to be answered: whether the learned Appellate Tribunal was justified in setting aside the confiscation of, and ordering the unconditional release of, a vehicle whose chassis frame a forensic report had found to bear a tampered and re-punched serial number, without recording any finding upon the correctness of that report or upon whether it had been rebutted. We confine ourselves to that question, and for the reasons which follow, answer it in the negative.

V. TAMPERED VEHICLES: THE SETTLED POSITION

8. *Ch. Maqbool Ahmed*² is instructive. A jeep, intercepted and found upon three forensic examinations, the last at the claimant's own request, to have a cut and welded chassis frame, was confiscated outright. The Supreme Court held that a presumption of truth

²*Ch. Maqbool Ahmed v. Customs, Federal Excise and Sales Tax, Appellate Tribunal* [2009 SCMR 226].

attaches to the report of the Forensic Science Laboratory, and that a plea of *bona fide* purchase could not avail “because it is [a] case involving a smuggled vehicle with tampered chassis frame and not a case of a smuggled vehicle with non-tampered chassis frame.”

9. *Noor Muhammad*³ carries the point further. There the claimant urged that two reports of the same laboratory were mutually contradictory and that a more lenient view was accordingly called for. The Supreme Court refused, holding that the claimant had had ample opportunity before every forum below and that “before all fora below he failed to rebut the report of the FSL that chassis number of the vehicle had been tampered with”, a plea of contradictory reports raised for the first time at the last tier being an afterthought.
10. The most recent word is *Abdul Karim*⁴. While recognising that a verified registration book ordinarily raises a presumption of lawful importation once the period prescribed by section 211(2) of the Act has elapsed, the Supreme Court was at pains to except the case of a tampered vehicle. At paragraph 22 the Court said:

“This principle however is distinguished for the case where vehicles were found with tampered chassis and engine numbers. If this is seemingly done to match the statistics of original vehicles auctioned or brought into Pakistan officially having different chassis/engine number, the lawful excuse may not be applicable in case of tampered vehicle.”

11. The Court excepted only two situations, an auction report explicitly disclosing the tampering, and a change of number made with the prior permission of the registering authority, neither of which is pleaded here, and made clear, at paragraph 25, that where it is established that chassis or engine numbers have been tampered with after auction or registration, *the lawful excuse is not available*. This Court has itself applied the same principle. In *Aurangzaib*⁵, a Division Bench set aside a Tribunal order which had permitted the

³*Noor Muhammad v. Customs Appellate Tribunal, Peshawar* [2020 SCMR 246].

⁴*The Intelligence Officer, Directorate of Intelligence and Investigation, FBR v. Abdul Karim* [2025 SCMR 969], decided on 17.04.2025.

⁵*Director, Directorate General, Intelligence and Investigation (Customs) v. Aurangzaib* [2021 PTD 1026].

release, on payment of a fine, of a vehicle whose chassis a forensic report found tampered, holding that the Tribunal had dealt with the finding “in a perfunctory manner” and had rested instead upon a registration which was unsubstantiated by the record. The observations made there apply with equal force to the order now before us.

12. *The law which emerges may be stated shortly: a forensic finding of chassis tampering carries a presumption of truth, and the onus of displacing it lies upon the party who asserts that the vehicle is genuine, not upon the department that produced the finding. A registration book, a pre-shipment certificate, or a plea of technical irregularity in the notice that preceded confiscation, none of these, without more, meets that onus; what meets it is evidence, from the manufacturer, or a further forensic examination, addressed to the finding itself. Until it is met, the vehicle remains one to which no exemption, and no unconditional release, is available.*

VI. THE IMPUGNED ORDER IN THE LIGHT OF THE SETTLED LAW

13. The premise on which the learned Tribunal proceeded that the examination report was self-contradictory does not, with respect, survive scrutiny. A report which finds that the number on one chassis frame matches the declared number but bears the marks of having been stamped afresh, and that a different, deliberately effaced number has resurfaced on the other frame under chemical treatment, is not an internally inconsistent report. It is, on the contrary, the ordinary signature of a re-punched chassis: one frame carrying the substituted number, the other retaining a trace of the number it replaced. That is precisely the state of affairs which forensic examination is designed to detect, and which the Supreme Court in *Ch. Maqbool Ahmed* and *Noor Muhammad* treated as sufficient to sustain confiscation.
14. Nor, with respect, could the unreported order in C.P. No. D-2280 of 2010, a decision of a learned Single Judge on facts not before this Bench be preferred to the reasoned pronouncements of the Supreme Court in *Ch. Maqbool Ahmed*, *Noor Muhammad* and

Abdul Karim, which bind the Tribunal and this Court alike. A precedent is an authority for what it decides upon the facts before it, and nothing has been shown to establish that the vehicle there examined bore two distinct chassis serials of the kind found here.

15. The reliance placed upon *M/s Baig Enterprises* stands on a different, and irrelevant, footing. That judgment, whatever its scope, addressed the classification of a genuine old and used Hino prime mover; it had nothing to say about a vehicle whose own chassis frame bears a re-punched number. Even upon the respondent's own case that the vehicle answered the description of a prime mover, the first proviso to Para-6 of Appendix-E of the Import Policy Order withdraws that classification's benefit, in terms, from a vehicle with a tampered chassis. The Tribunal's classification finding, even taken at its highest, could not cure the defect on which the confiscation independently rested.
16. As to the plea that a defective show cause notice voids all that follows: even assuming, without deciding, that the notice was wanting in particularity, that defect goes to the regularity of the proceedings and not to the physical fact, independently established by an unrebutted forensic report, that the chassis had been tampered with. A defect of that kind may call for a fresh notice; it cannot convert a tampered vehicle into one fit for unconditional release, and the two questions the sufficiency of the notice and the genuineness of the chassis ought not to have been allowed to merge into one another.
17. Finally, the onus. It is not the department's burden to lead further evidence once a forensic finding of tampering stands on the record; it is for the party asserting the genuineness of the vehicle to displace that finding, whether by producing the manufacturer's confirmation, seeking a further examination, or otherwise. The respondent did none of these. A pre-shipment certificate speaking only to age and description, and an import document consistent with the number the respondent itself declared, answer nothing regarding the number found effaced upon the other frame. The onus, once engaged, was never discharged.

VII. THE ANSWER TO THE QUESTION

18. Question (C), which we have held to be the only question this case requires us to answer, is answered in the **negative**, in favour of the applicant Collectorate and against the respondent. The learned Appellate Tribunal was not justified in setting aside the confiscation of, or in ordering the unconditional release of, a vehicle whose chassis frame an unrebutted forensic report had found to bear a tampered and re-punched serial number, upon grounds that left the correctness of that report unexamined. In view of this answer, it is unnecessary, and we accordingly decline, to record separate findings upon questions (A), (B), (D) and (E).

VIII. ORDER

19. Both reference applications are allowed, in the terms set out above. The common judgment dated 19.08.2020 passed by the Customs Appellate Tribunal, Bench-II, Karachi in Customs Appeal Nos. K-594/2018 and K-595/2018 is set aside, and Order-in-Original Nos. 1094109 and 1094121, both dated 30.03.2018, are restored. The confiscation shall take effect in accordance with section 182 of the Act and such instructions as the Federal Board of Revenue may have issued, including Customs General Order No. 04 of 2026, for the use and disposal of confiscated vehicles with tampered chassis numbers.
20. Let a copy of this judgment be sent under the seal of this Court and the signature of the Registrar to the Customs Appellate Tribunal, Bench-II, Karachi, in terms of sub-section (10) of section 196 of the Act, whereupon the impugned judgment shall stand modified accordingly. The reference applications stand disposed of in the above terms, with no order as to costs. Office to place copy of this order in the connected case.

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Karachi, Dated: 29th day of September 2026