

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Special Customs Reference Application Nos. 752 & 753 of 2024

Date

Order with signature of Judge

Hearing of case (Priority)

1. For Order on Office Objection No. 25.
2. For hearing of main case.
3. For hearing of CMA No. 3260/2024.

07.08.2025.

Mr. Khalid Mehmood Rajpar, Advocate for Applicant in both
Reference Applications.

Mr. Ovais Ali Shah, Advocate for Respondents in both SCRA's.

Through these Reference Applications, the Applicant has impugned judgment dated 15.08.2024 passed in Customs Appeal Nos.K-2648 & 2649 of 2024 by the Customs Appellate Tribunal, Bench-I, Karachi, proposing various questions of law; however, at the very outset after briefly hearing the learned Counsel and after going through the record and question No. 2, we have noticed that the Respondents in whose favour, the Tribunal has passed the impugned order had never appeared before the adjudicating authority as reflected from the Order-in-Original No. 02/2024-25 dated 01.07.2024, whereas, the Tribunal has considered the contention of the Respondents including documents which were never presented before the original authority and based on that has overturned a finding of fact recorded at the original stage that foreign origin cloth (seized goods) imported into Pakistan were smuggled; hence, were liable for outright confiscation.

While confronted it is contended by the Counsel for Respondents that no show cause notices were ever issued to the present Respondents, therefore, they could not appear before the Adjudicating Authority; however, if that be the case, then the Tribunal ought to have remanded the matter to the original authority for examining the contention of the Respondents, as the Order-in-Original was an ex-parte order.

In the circumstances, the impugned order of the Tribunal and Order in Original are hereby set-aside and the matter is remanded to the concerned adjudicating authority before whom the Respondents shall appear and place all material and documents which they had relied upon before the Tribunal; whereafter, the said authority shall pass appropriate Order-in-Original expeditiously in accordance with law preferably within a period of 30 days from today.

These Reference Applications are allowed in the above terms. Office to place copy of this order in the connected case.

Chief Justice

Judge

Avaz