

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

S.C.R.A. 865 & 866 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
------	----------------------------------

- 1. For order on CMA No.2165/2025
- 2. For order on office objection
- 3. For hearing of CMA No.3868/2024
- 4. For hearing of main case

09.10.2025

Sardar Zafar Hussain, advocate for the applicant
Mr. Muhammad Adeel Awan, advocate for respondent

- 1. Urgent application is granted.
- 2-4. It is jointly stated that these reference application are squarely covered by order dated 29.09.2025 passed in SCRA 1565 of 2023 and other connected matters, which is reproduced herein below:

“29.09.2025

Sardar Zafar Hussain, advocate alongwith Mr. M. Siddique, advocate for the applicant.
Agha Shahid Majeed Khan, advocate for the applicant.
Mr. Arif Manthar, advocate and Mr. Bilawal solangi, advocate for the applicant.
Mr. Salman Yousuf, advocate holding brief for Ms. Naveen Merchant, advocate.
Mr. Muhammad Adeel Awan, advocate for the respondent.
Mr. Abdul Moiz Jaferii, advocate for the respondent.
Mr.
Mr. Athar Hussain, advocate for the respondent.

On the last date following order was passed:

“25.09.20025

Messrs. Zafar Hussain and Ahmed Ali Hussain for Moiz Jaferi, advocates for the applicant.

Messrs. Naveen Merchant, Agha Shahid Majeed Khan, Adeel Awan, Saad Shafiq Siddiqui, Aqeel Ahmed Khan, Asif Ali Siyal, Imran Iqbal Khan, Athar Ali for Sarfaraz Metlo, Bilawal Solangi, advocates for respondents.

Agha Shahid Majeed Khan advocate files vakalatnamas on behalf of applicant No.3 in SCRA's 1774, 1789 & 1756 of 2023, which are taken on record.

This bunch of reference is pending since 2023 and 20024. Per departmental counsel three pari materia valuation rulings were in the field and same were assailed before the Director General Valuation under Section 25-D of Customs Act, 1969. The challenge fate and the matters were escalated before the learned Customs Appellate Tribunal. It is further submitted that inconsistent judgments were rendered by the learned

Tribunal in the pari materia facts insofar as in one set of cases the entire 15% quantum of discount was denied. In another set it was sustained to the extent of 7% and yet it was sustained to the extent of 10%. Learned counsel states that it may be just and proper for the matters to be remanded back to the learned Tribunal for adjudication afresh so that the factual aspect be considered in its proper perspective.

It is further stated that identical controversy has been determined by Division Bench order of this Court dated 28.08.2025, passed in Special Customs Reference Application 589 of 2024 and other connected matters and that it may be just and proper for these matters to be remanded back also in the same terms. The relevant order is reproduced herein below:

"In SCRA Nos.589 & 590 of 2024, the Applicant has impugned judgment dated 29.07..2024, whereby, the Tribunal has dismissed the Appeals of the Applicant by holding that the Applicant is not entitled for exemption from duties and taxes in respect of import of the pharmaceutical Raw Material i.e. Sanal P Sodium Chloride and Dextrose Anhydrous. The same time in SCRA No.637 of 2024, the Collector of Customs SAPT has impugned the judgment dated 10.07.2024 passed by the same Tribunal; whereby, the appeal of the importer has been allowed and claim of exemption has been admitted by the Tribunal on an identical imported product.

Today, the department's Counsel appearing in these Reference Applications have been confronted and they along with the Applicant's Counsel submit that by consent both these orders may be set-aside and matters be remanded to the Tribunal for a decision afresh in accordance with law.

In view of above, since the Tribunal has passed two contradictory orders regarding admissibility of exemption in respect of the same product, all three orders of the Tribunal passed in Customs Appeal Nos. K-1269 of 2023, K-1571 of 2023 dated 29.07.2024 and K-245 of 2024 dated 10.07.2024 are hereby set-aside by consent and matters stand remanded to the Tribunal, which shall be heard by a Division Bench comprising a Member (Technical) and a Member (Judicial) [other than the member who has authored the impugned orders in question] in accordance with law, after affording opportunity of hearing to all concerned preferably within a period of 90 days from today.

All these Reference Applications along with Petitions are hereby disposed of, whereas, the amount so secured at the time of release of the consignment in the petitions shall be subject to outcome of the decision by the Tribunal.

Let a copy of this order be issued to the Tribunal for compliance and a copy of this order may also be placed in the connected cases."

Learned counsel seeks disposal of these reference applications in terms above. At this juncture, learned counsels for the respondents seek time to obtain instructions. At their request these matters are adjourned to 29.09.2025 at 08:30 AM. Office is instructed to place copy of this order in connected matters."

Today, learned counsel jointly submit that in pursuance of the aforementioned order, the impugned orders, subject matter herein, be set aside and the matter be remanded back to the appellate tribunal for adjudication afresh in accordance with law. Learned counsel further states that the Tribunal may be pleased to decide the matters within a period of three months in accordance with law settled principle of law and the pending aforesaid, no further coercive action be taken against the

assesses. In view hereof, the impugned judgments are hereby set aside and the reference applications are hereby disposed of. Whereas any amount secured shall be subject to the outcome of the respective case before the learned Tribunal.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.”

Counsel states that these reference applications may also be disposed of for the same reasoning and upon same terms as aforesaid. Order accordingly.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Office is instructed to place copy of this order in connected matter.

Judge

Judge