

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1292 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For hearing of main case
- 2. For hearing of CMA No.3079/2024

23.10.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Courier tracking report placed on record demonstrates that service has been effected upon the respondent.

Learned counsel had pressed following question for determination:-

- Whether the Appellate Tribunal's conclusion that the Customs Authorities are not empowered to recover the Sales Tax is not erroneous being based upon non-reading of Section 32(1)&(2) read with Sections 179 and 202 of the Customs Act, 1969 and Section 6 of the Sales Tax Act 1990?

Learned counsel refers to paragraph 8 of the impugned judgment, which reads as follows:-

"8. During hearing, learned counsel for appellants placed reliance on order of the High of Sindh passed in CP 5482 of 2017 *Nestle Pakistan Limited Vs. The Federal Board of Revenue & Others* in which it was held that the Collectorate of Customs lack jurisdiction to adjudicate any short recovery of sales tax and income tax or any other taxes (other than customs duty) once the consignments are out of charge or have been finalized under Section 80 of the Customs Act, 1969. Whereas, the Department Representative have admitted that such order has been passed by the High court against the Respondent department but the same has been challenged before the Supreme Court of Pakistan through CPLA which till date has not been decided nor stay order has been obtained by respondent. For ease of reference relevant para of the judgment is reproduced as under:-

28. In view hereof, these petitions were allowed, in Court at the conclusion of the hearing, in terms of our short order dated 15.11.2022, operative constituent whereof is reproduced herein below:

"For reasons to be recorded later on these petitions are allowed to the extent that the officers of Collectorate of Customs (Adjudication) have no jurisdiction to recover or adjudicate any short levy / recovery of sales tax and income tax once the imported consignments have been assessed to duty and taxes in terms of section 80 of the Customs Act, 1969 and are released / cleared from Customs. The impugned show cause notices, only to this extent are held to be issued without lawful authority and jurisdiction and are hereby set-aside; however, the proceedings, if any, in respect of short levied sales tax and income tax can be initiated by the Officers of Inland Revenue Department, strictly in accordance with law. Office to place copy of this order in the connected petitions as above."

Learned counsel states that the judgment relied upon by the learned Tribunal has been overturned by the Hon'ble Supreme Court by judgment dated 05.09.2025 in the case of *Director of Post Audit Clearance v. Nestle Pakistan Limited (Civil Petition 70-K of 2023) and connected matters*.

Learned counsel states that in view of the judgment of the Supreme Court the question framed may be decided in favour of the applicant department and against the respondent, hence, this reference may be allowed. Order accordingly.

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

Judge

Judge

B-K Soomro