

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 920 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For order on office objection.
2. For hearing of CMA No. 1212/23.
3. For hearing of main case.
4. For hearing of CMA No. 1213/2023.

02.12.2025

Mr. Khalid Mehmood Rajper, advocate for applicant.
Mr. Manzar Hussain Memon, advocate along with Mr. Gul Muhammad Soomro, advocate for respondent.

Order dated 21.10.2025 reads as follows:-

“21.10.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Learned counsel refers to paragraph 10 of the original adjudicating order which reads as follows :

10. The show cause notice dated 27.10.2021 in the case was issued for violation of the aforementioned provisions of law and the case was fixed for the hearings on 09.11.2021 & 23.11.2021. The time limit for adjudication was further the extension for adjudication was allowed by the Board upto 30.04.2022 under section 179(4) of the Customs Act, 1969. Mr. Humair Uddin (AO) appeared on behalf of the case making agency i.e., Directorate General of Intelligence & Investigation (Customs)-FBR, Karachi and reiterated the charges leveled in the show cause notice. The opportunities were extended to the respondent to defend the charges, however, neither the respondent nor any one on his behalf attended the hearings. As the matter cannot be kept pending for an indefinite time period, as a result the matter is being decided on the basis of available record.

He states that the respondent never appeared before the adjudicating officer; ostensibly in an attempt to render the adjudication proceedings barred by limitation. He stated that subsequently he filed an appeal before the learned Tribunal, however, instead of remanding the matter back to the adjudication officer the learned Tribunal was pleased to give the respondents benefit of truancy and held in favour thereof. Learned counsel states that the issues under adjudication were entirely disregarded by the learned Tribunal in the impugned judgment in a perfunctory manner, which is not befitting the last fact-finding forum in the statutory hierarchy. He states that even though the respondent never appeared before the adjudicating officer the paragraph 19 of the impugned judgment holds that he has discharged his initial burden. Learned counsel places reliance on judgment of this Court dated 07.08.2025 passed in SCRA 752 of 2024 to state that the correct action to be followed by the learned Tribunal was to remand the matter before the adjudicating officer to enable efficacious adjudication.

This reference application is admitted; notice to the respondent for 04.11.2025 through first two modes as well as courier. Learned counsel to place tracking report of courier on record. In the meanwhile, operation of the impugned judgment dated 16.12.2022 passed in Customs Appeal No. K-800 of 2022, is suspended.”

Learned counsel for the respondent states that it may be just and proper to set aside the impugned judgment and remand the case back to the adjudication officer for adjudication afresh in accordance with law. He

states that pending the aforesaid, no coercive action be taken against the respondent arising herefrom. Learned counsel for the applicant articulates no cavil in such regard and states that the reference may be disposed in the same terms. Order accordingly.

A copy of this order 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.

Judge

Judge

Ayaz p.s.