

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 715 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of main case
2. For hearing of CMA No.3992/2022

10.12.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Following questions of law had been proposed for determination :

1. Whether in consideration of the facts and circumstances of the case, the learned Appellate Tribunal has not erred to law to give option under Section 181 of the Customs Act, 1969, to redeem the smuggled/non-duty paid Dump Truck on payment of redemption which was confiscated outright in terms of clauses (8) and (89) of sub-section (1) read with subsection (2) of Section 156, for violation of the provisions of Section 2(s), 16 and 157(2) of the Act. Ibid?
2. Whether the 1st Respondent (herein) without associating himself with the adjudication proceedings under Section 179 of the Customs Act 1969 and claiming the Dump Truck was entitled to filed Customs Appeal under Section 194-A of the Customs Act, 1969, as an aggrieved person?

Learned counsel states that service has been effected through publication and relevant newspaper is placed on record.

Per learned counsel identical matters have already been determined by this Court including order dated 08.12.2025 passed in SCRA 163 of 2022, which reads as follows :

“08.12.2025

Mr. Khalid Mehmood Rajper, advocate for the applicant.

Learned counsel for the applicant has proposed following questions of law for determination:

1. Whether in view of the facts and circumstances of the case the impugned vehicle exclusively and wholly used for the transportation of smuggled betel nuts [Section 2(s) goods] recovered from specially designed cavities, is liable to outright confiscation under clauses (8) and (89) of subsection (1) of Section 156 and Section 157(2) of the Customs Act, 1969, read with clause (b) of preamble of SRO 499(I)/2009 dated 13.06.2009?

2. Whether in view of the facts and circumstances of the case the impugned judgment passed by Appellate Tribunal is not violative of Section 157(2) of the Customs Act, 1969, read with clause (b) of preamble of SRO 499(1)/2009 dated 13.06.2009?

3. Whether the Appellate Tribunal was justified and has the jurisdiction to allow release of outrightly confiscated vehicle on payment of fine and penalty which was used exclusively and wholly for the transportation of smuggled goods of Section 2(s) i.e. betel nuts in concealment shows mens rea?

Learned counsel states that respondents had been avoiding service, therefore, order for substituting service has been obtained and in pursuance thereof service has been effected. He demonstrates from the Court's file that the relevant newspaper cutting excerpt has already been placed on record.

Learned counsel states that questions proposed have already been decided in favour of the applicant department by the Supreme Court in the case reported as 2025 SCMR 1912 & in the case of *Muhammad Ishaq* (Judgment dated 29.10.2025 in Civil Petition No.2853/2025). Learned counsel states that cited authority is binding upon this Court, therefore, in mutatis mutanda application thereof, these questions be decided in favour of the department. Order accordingly.

A copy of this decision may also 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.

Learned counsel states that in view of the aforementioned order this reference application may also be disposed of for the same reasons and upon the same terms. 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