

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1609 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on office objection.
- 2. For hearing of CMA 4294/2023.
- 3. For hearing of Main Case.
- 4. For hearing of CMA 4295/2023.

23.12.2025

Sardar Zafar Hussain, advocate holds brief for Mr. Khalid Mehmood Rajper, advocate for the applicant.

On 07.10.2025, the following order was passed:

“Pursuant to the last order Director Post Clearance Audit is present. He places on record the Tribunal's judgment mentioned in paragraph 11 of the impugned judgment and states that it was predicated on a question of fact. He demonstrates from paragraph 7 thereof that the learned Tribunal had undertaken a factual exercise and come to a conclusion in the relevant facts and circumstances of that case. He states that in the present case the impugned judgment ought to have been rested on the basis of facts and circumstances peculiar thereto and stance of the department could not have been unilaterally non-suited without such a deliberation. He concludes by stating that the impugned judgment prima facie is devoid of any independent discussion or deliberation/s and the same is not befitting the last fact-finding forum in the statutory hierarchy. The presence and assistance of the learned officer is appreciated and dispensed with.

Admit reference application; notice to the respondent; to come up on 21.10.2025. In the meanwhile, operation of the impugned judgment dated 16.06.2023 passed in Customs Appeal No.K-832/2019 is suspended.”

Learned counsel demonstrates from the record that pursuant to orders of substituted service, service has been effected on the respondent via publication and the relevant newspaper excerpt is available on file.

The Appellate Tribunal is the last fact-finding forum in the statutory hierarchy; therefore, it is incumbent upon it to render independent

deliberations and findings on each issue. The manner in which the appeals in general are to be addressed has been emphasized by the Supreme Court in the judgment reported as 2019 SCMR 1726. This High Court has consistently maintained that the Appellate Tribunal is required to proffer independent reasons and findings, and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on the judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgments have also maintained that if the impugned order is discrepant in the manner as aforesaid, the correct course is to remand the matter for adjudication afresh. Reliance is placed on the judgment dated 10.12.2024 in ITRA 343 of 2024.

We are of the considered view that the impugned judgment could not be considered to be a speaking order and is *prima facie* devoid of any independent reasoning etc. The entire judgment comprises essentially of reproduction and is crowned with a dissonant conclusion. Hence, no case is set forth to sustain the impugned judgment, which is hereby *set aside* and the matter is remanded back to the Appellate Tribunal for adjudication afresh in accordance with law.

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.

Judge

Judge

M. Khan