

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 964 of 2017

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

- 1. For orders on office objection No.5 & 20
- 2. For hearing of CMA No.436/2024
- 3. For hearing of main case
- 4. For hearing of CMA No.437/2024

10.11.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Per learned counsel the issue in this case is release of tampered vehicle. He states that it is settled law that the same cannot be done in view of paragraph 22 of recent judgment of Supreme Court passed on 03.03.2025 in Civil Appeals 1088, 1231 to 1236 of 2013 (*Intelligence Officer, Directorate of Intelligence & Investigation FBR and others vs. Abdul Karim*).

Learned counsel places courier tracking report on record to demonstrate that the service has been effected.

The following questions of law had been proposed for determination:

- 1. Whether smuggled/ non-duty paid vehicle, having tampered chassis number (Notified vide Serial No. 26 of SRO 566(1)/2005 dated 06.06.2005, issued for the purpose of Section 2(s) and 156(2) of the Customs Act, 1969), could be released by the learned Member (Judicial-1), Customs Appellate Tribunal without any discussion much less examination and analysis of the facts and law involved?
- 2. Whether, the Learned Member (Judicial-1), Appellate Tribunal, Bench-1, Karachi, has seriously erred in law by not taking notice and giving findings on the evidence of Chemical Examination Report No. FSL/OR/03/2016 dated 14.01.2016, confirming therein that chassis frame is welded and replaced on the site of original chassis number?
- 3. Whether, the Learned Member (Judicial-1), Appellate Tribunal, Bench-1, Karachi, while concluding the impugned judgment has seriously erred in law and failed to understand that in terms of sub Section (2) of Section 156 and Section 187 of the Customs Act, 1969, the respondent /possession holder of the vehicle has failed to discharge burden of proof of lawful possession?
- 4. Whether registration of smuggled vehicle, having tampered chassis number with Motor Registration Authority Civic Centre, Multan, can regularize a smuggled vehicle and absolve it from payment of duty and taxes under the Customs Act, 1969?

Learned counsel states that these questions were squarely determined in favour of the applicant department by virtue of judgment referred to supra. In addition thereto he states that identical matters have been decided by earlier Division Bench of this court including order dated 29.08.2025 in SCRA 240 of 2024, which reads as follows :

“On 11.04.2025 the following order was passed:-
“In compliance of earlier order, learned counsel has filed amended questions of law. From perusal of question No.2 it appears that the subject question has now been reserved for judgment by Supreme Court against

the judgment of this Court, therefore, the matter is adjourned to 23.05.2025; whereas counsel for the department is directed to seek instructions as to the above case pending before Supreme Court.”

It appears that in the instant matter the allegation against the Applicant was regarding tampered chassis of the Vehicle in question. The Tribunal has recorded finding of fact in paragraph-9, which reads as under:-

“9. Heard both the sides at length. As per examination report of Assistant Inspector General of Vehicles Examination Unit, AIG (Police), Forensic Division, Sindh, Karachi vide letter No.AIG/FD/Veh/OR/45/2023 dated 19-01-2023, the present chasis serial (URJ201-4195516) is self-punched / fake digits. The piece of present chasis frame is welded & replaced at the site of original chasis number. Hence, it has transpired from forensic analysis that the seized vehicle is with self-punched digits/tampered chasis frame.”

The controversy as to the vehicle in question being in possession as a bonafide owner, has been dealt with by the Honourable Supreme Court in a recent judgment reported as ***The Intelligence Officer, Directorate of Intelligence and Investigation, FBR and others vs. Abdul Karim and others (2025 SCMR 969)***; however, in paragraph-22 there is an exception for vehicle which has been found with tampered chassis and engine numbers. The Honourable Supreme Court has observed in paragraph-22 as follows:-

“22. This principle however is distinguished for the case where vehicles were found with tampered chassis and engine numbers. If this is seemingly done to match the statistics of original vehicles auctioned or brought into Pakistan officially having different chassis/engine number, the lawful excuse may not be applicable in case of tampered vehicle. This would not include those vehicles which were acquired via auction report explicitly disclosing such tampering and tampered statistics. Also at times the engine and chassis numbers are changed which are also excluded from any action, provided it was done with prior permission of the authority under the Motor Vehicles Ordinance, 1965. All this require thorough probe at the end to applicant which again is a question of fact not required to be determined by us afresh.”

Moreover, the Tribunal has also recorded a finding of fact that no documents were brought on record by the Applicant; whereas, the stance taken was that Rs.2 Million were paid in cash and posted dated cheques from the original owner; hence the possession was bonafide.

We are afraid this is no ground for any interference. Accordingly, the proposed question No.4 is answered against the Applicant as it is a case of tampered chassis number, whereas, the other questions need not be answered. The Reference Application is hereby dismissed along with pending application(s). Let a copy of this order be sent to the Customs Appellate Tribunal at Karachi under Section 196(10) of the Customs Act, 1969”

Learned counsel states that in view the binding nature of authority cited the questions proposed for determination be answered in favour of the department and the impugned judgment be set aside. 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