

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 807 of 2019
alongwith
Special Customs Reference Application Nos. 808 to 810 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For hearing of CMA No.3957/2019
- 2. For hearing of main case
- 3. For hearing of CMA No.3958/2019

13.11.2025

Sardar Zafar Hussain, advocate for the applicant

Learned counsel had pressed following questions for determination:-

“Whether the learned Customs Appellate Tribunal has erred in law by holding that customs officers are not empowered to recover the short levy amount of sales tax while disparaging vires of section 32, (3A) of the Customs Act, 1969 read with provisions of Sales Tax Act, 1990, which in fact profusely empower the Customs Officer to recover the quantum of sales tax and income tax?

Whether on the facts and circumstances of the case, the learned Customs Appellate Tribunal has failed to decide the facts/issue raised in the Show Cause Notice / order-in-original?

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

Learned counsel states that insofar as first question is concerned, the same is squarely decided in favour of the applicant department by virtue of recent judgment of the Supreme Court dated 05.09.2025 in the case of *Director of Post Audit Clearance v. Nestle Pakistan Limited* (Civil Petition No.70-K of 2023) and connected matters.

Insofar as the second question is concerned, learned counsel states that the impugned order has been rendered with *prima facie* negligence, as the issues raised before the learned Tribunal have not been discussed, deliberated and / or concluded, and states that the judgment has been rested on erroneous / extraneous considerations. He states that such perfunctory conduct is not befitting the last fact-finding forum of the statutory hierarchy.

Learned counsel states that the first question even decided in favour of the applicant, but the second question merits *setting aside* of the order as well, however, vide a remand order. He states that it is imperative that the Tribunal has to discuss, deliberate and conclude the issues raised there before by the respective parties and arising out of the order-in-appeal. In such situation, it is sought that the impugned order be *set aside* and the matter be remanded back to the learned Tribunal for adjudication afresh in accordance with law. Order accordingly. SCRAs stand disposed of.

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.

Office is instructed to place a copy of this order in the connected SCRAs listed above.

Judge

Judge