

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 30 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
1. For hearing of CMA No.411/21. 2. For hearing of main case 3. For hearing of CMA No.413/21.	

25.11.2025

Mr. Khalid Mehmood Rajper, advocate for applicant.

This reference is pending since 2021 and following questions had been proposed for determination:-

- i. Whether the learned Customs Appellate Tribunal while concluding impugned judgment has erred in law to dispose of five customs appeals through impugned common judgment involving distinguishable facts, questions of law, evidences and different parties without discussing the merit of the cases separately?
- ii. Whether in view of the express provisions of Sub Section (3) of Section 194-C of the Customs Act, 1969, the learned Customs Appellate Tribunal sitting singly was justified to decide Customs Appeal No. K-1162/2019, filed by the 1st Respondent (herein) vide impugned judgment, involving duty and taxes exceeding 5 million rupees?
- iii. Whether in view of the facts and circumstances of the case, the learned Appellate Tribunal was justified to hold that the 1st Respondent (herein) has successfully discharged burden of proof of lawful possession as envisaged under clause (89) of Sub Section (1) of Section 156 and Section 187 of the Customs Act 1969?
- iv. Whether in view of the facts and circumstances of the case, the learned Customs Appellate Tribunal has correctly interpreted the provisions of Section 2(s), 16 & clause (89) of Sub Section (1) of Section 156 of the Customs Act, 1969?
- v. Whether the impugned judgment passed by the learned Appellate Tribunal being based on misreading of evidence, relevant provisions of the Customs Act, 1969 and misplaced distinguishable judgments, is sustainable under the law?

Learned counsel states that it is *prima facie* discernible from the impugned order that it has been rendered in a perfunctory manner and is devoid of any independent discussion and deliberation and cannot be sustained as a conclusive pronouncement of the last fact-finding forum in the statutory hierarchy.

The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent 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 1626. 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 order could not be considered to be a speaking order and is *prima facie* devoid of relevant discussion and deliberation. The entire order is crowned with a dissonant conclusion. Therefore, no case is set forth to sustain the impugned order and the same is hereby *set aside*; the matters are remanded back to the Appellate Tribunal for adjudication afresh per the law.

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