

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 576 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of main case.
2. For hearing of CMA No.5405/2016.

02.03.2026

Mr. Khalid Mahmood Rajpar, advocate for the applicant.

Sardar Zafar Hussain, advocate files Vakalatnama on behalf of respondent, same is taken on record. On the last date following order was passed:

"16.12.2025

Mr. Khalid Mehmood Rajper, advocate for applicant.

Learned counsel proposes the following questions of law for determination:-

- i. When, in respect of the imported goods, the importers is claiming a particular PCT Heading and the Detecting Agency is alleging a different PCT Heading to be applicable, whether the learned Appellate Tribunal is vested with the jurisdiction and authority to prescribe a completed different PCT Heading altogether, which was never in issue during the appeal proceedings?
- ii. Without prejudice to the preceding question of law, whether no case for "mis-declaration" could be deemed to have been made out where on account of (minimum) difference of Customs Duty of 9%, as between the importer's declared PCT Heading (8517.6970) entailing 1% CD) and the learned Appellate Tribunal held PCT Heading 8517.6990 entailing 10% CD, successful attempt at evasion of revenue is established from the record?
- iii. Whether in view of the stringent requirement of Section 79(1)(a) of the Customs Act, 1969 to furnish the complete and correct particulars of the imported goods, the charge of "mis-declaration" could be deemed to have not been established especially where the particulars of the imported goods in invoice are materially different and at variance with those declared in the Goods Declared, filed by the importer under self-assessment and mis-using its Green-channel status?
- iv. Whether the learned Appellate Tribunal has not exceeded its jurisdiction in rendering applicable, through the Order-in-Appeal, impugned herein, concession as to payment of Customs Duty in terms of Pak-China FTA on the subject consignment despite the importer having neither claimed the same at the time of filing of the Goods Declaration nor at the stage of the clearance of the imported goods?
- v. Whether the impugned Order-in-Appeal is warranted and sustainable under the law on account of having been passed without the reading, much less the appreciation, of the relevant law and the material available on the record during the appeal proceedings?

Notwithstanding the foregoing, learned counsel relies on the judgment of Supreme Court in the case of *K.S. Sulemanji Esmailji* reported as 2025 PTD 260. He states that proper course would have been for referral of the matter to the Classification Committee, however, same has not been done, and hence the impugned judgment cannot be sustained.

Admit reference; notice to the respondent through first two modes as well as courier. Learned counsel is directed to place on record tracking report; to come up after four weeks.”

Today learned counsel jointly state that identical matters has already been determined *inter alia* vide order dated 23.10.2025 in SCRA 1120 of 2023, which reads as follows.

“23.10.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant.
Mr. Aneel Zia and Ms. Saima Syed, advocates for the respondent.

It is jointly stated that identical matters have been disposed of with directions, including order dated 27.11.2024 in SCRA Nos.1117 and 1118 of 2023, which is reproduced as follows:

“Through these Reference Applications, the Applicant has impugned Judgment dated 08.02.2023 passed by the Customs Appellate Tribunal Bench-I in Customs Appeal Nos. K-2308 & 2297 of 2022 proposing various questions of law. Learned Counsel for the Respondents submits that the Tribunal has erred in law by deciding the classification of the goods, whereas, these matters ought to have been referred to the Classification Committee of the Appraisal Collectorate in terms of Chapter 1 of CGO 12/2002.

Accordingly, the orders passed by the forums below are hereby set-aside. These Reference Applications are disposed of with pending applications by referring the matters to the Classification Committee pursuant to judgment passed by the Hon'ble Supreme Court of Pakistan in K.S. Sulemanji Esmailji.

Office to place copy of this order in the connected Reference Application.”

Learned counsel seek that this reference 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.”

Learned counsel jointly submit that this reference application may be disposed of for the same reasons and upon same terms. Order accordingly.

A copy of this decision 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