

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 151 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of CMA No.1928/2025
3. For hearing of main case
4. For hearing of CMA No.1918/2025

07.05.2026

Mr. Munawar Ali Memon, advocate for the applicant
Mr. Basit Umer, advocate for respondent

Following questions of law had been proposed for determination:

- A. Whether the Honourable Customs Appellate Tribunal has failed to appreciate that Section 2(s) of the Customs Act, 1969, clearly defines "smuggle" "means to bring into or **take out of Pakistan**, in breach of any prohibition or restriction for the time being in force, **anywhere within the territorial jurisdiction of Pakistan** or evading payment of customs-duties or taxes leviable thereon along with addition of essential commodities at sub-clause (iv) of Section 2(s) of the Customs Act, 1969?
- B. Whether under the law and circumstances of the case, the Honourable Customs Appellate Tribunal erred in interpretation of Section 2(s) of the Customs Act, 1969 by limiting its scope only to inward smuggling and excluding its scope in respect of outward smuggling of essential commodities?
- C. Whether under the law and circumstances of the case, the Honourable Customs Appellate Tribunal erred in law by allowing the appeal which undermined and reduced to redundancy the entire legal structure including amended Section 2(s) and clause (8), (89) of Section 156(1) of the Customs Act, 1969, SRO 495(1)/2023 dated 14.04.2023 and SRO 901(I)/2023 dated 07.07.2023 aimed at preventing outward smuggling of essential commodities?
- D. Whether under the law and circumstances of the case, the Honourable Customs Appellate Tribunal has ignored the authority delegated to respective Provincial Governments offices under Notification F.No.1(7)2005-CA, Vol-III dated 14.09.2006 and entrusted the enforcement functions to LEAs including customs by notifying the JCPs/IPJCPs vide SRO 901(I)/2023 dated 07.07.2023 as amended by SRO 1521(I)/2023 dated 07.11.2023, for outward smuggling of essential commodities notified under sub-clause (iv) of Section 2(s) of the Customs Act, 1969?

Notwithstanding the foregoing it is contended by the learned counsel for the applicant that the impugned judgment is prima facie devoid of any independent discussion and / or deliberation and has been rendered entirely on surmises and conjectures. Learned counsel states that the same is not befitting the last-fact finding forum in the statutory hierarchy.

Learned counsel for respondent states that there is no case of smuggling as the relevant documents had been provided by the respondent. Upon being so confronted as to whether the said documents have been referred to and / or relied upon by the learned Tribunal in the impugned judgment, he responds in the negative.

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 signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Judge

Judge

Amjad