

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 871 of 2024

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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Hearing of case (priority)

1. For order on office objection.
2. For hearing of main case.
3. For hearing of CMA No. 3904/24.

**31.08.2026**

Mr. Khalid Mehmood Rajpar, advocate for the applicant.

While numerous questions of law had been proposed, learned counsel presses the following question for the present purposes:-

- i. Whether offence of mis-declaration comes within the meaning of section 32(1) and 79(1) and applicant has jurisdiction to recover sales tax, income tax, custom duty and additional sales tax discovered to be short-levied, inadmissible exemption claimed after clearance of goods in accordance with law, as recently settled in principle by Supreme Court in Nestle Pakistan reported as 2025 SCMR 1974?

Learned counsel places on record Order dated 26.11.2025 of this Court in SCRA Nos. 15 & 16 of 2020, which is reproduced herein below:-

“Mr. Khalid Mehmood Rajper, advocate for applicant.

Learned counsel presses these references to the extent of the question as to whether the Customs department is competent to initiate proceedings for short levied of income tax, sales tax etc.

He states that the matter has been decided by the honourable supreme court vide judgment dated 05.09.2025 in the case of *Director of Post Audit Clearance vs. Nestle Pakistan Limited (Civil Petition 70K of 2023)* and connected matters and the said judgment is squarely binding on this Court. He draws attention to paragraph-21 onwards of the said judgment, which reads as follows:-

“21. On the basis of the foregoing, it is important to note that the provisions of Section 32 of the Customs Act and Section 6(1) of the Sales Tax Act, as presently worded, contain the language inserted by the Finance Acts of 2014 and 2015. These amendments are material because they reveal the legislative intent that prompted the inclusion of the terms “taxes” in Section 32 and “including recovery” in Section 6(1). Taken together with the subsequent omission of Section 11 of the Sales Tax Act by the Finance Act 2024, a clear trajectory emerges: Parliament has consciously moved away from a broad, catch-all recovery jurisdiction of Inland Revenue, and toward a coherent framework in which customs duty, sales tax, and advance income tax, all levied at the point of import, are administered and, where necessary, recovered through the machinery of the Customs Act. To disregard the significance of these insertions and omissions would be to overlook the deliberate coherence Parliament has sought to create in the scheme of import-stage taxation.

22. Accordingly, this Court is satisfied that under the statutory framework comprising the Customs Act, the Sales Tax Act, and the Income Tax Ordinance, as read in light of the various Finance Act amendments discussed above, the Customs authorities do retain jurisdiction to recover import-stage sales tax and advance income tax, even where short-levy is discovered after clearance of goods.

23. It bears emphasis that customs duty, sales tax, and advance income tax at the import stage are all charged and collected, as part of the same transactional event. Where, owing to a misapplied exemption or other lapse, the full liability is not realized at that stage, it is consistent with both logic and statutory design that the Customs authorities should be empowered to address and recover the deficiency. To hold otherwise would fracture the statutory scheme, dispersing jurisdiction between different authorities in respect of levies that are assessed and collected together at the border, thereby defeating the coherence that the Parliament sought to ensure through the scheme of cross-reference and the amendments already noted.

24. For the reasons recorded above, it is declared that the Customs authorities have jurisdiction, within the statutory limitation, to recover import-stage sales tax and advance income tax that was not levied owing to a wrongly granted exemption, even if such short-levy is discovered after clearance of goods. The show-cause notices issued to the respondents are accordingly restored for adjudication on their merits, in accordance with law.

25. Accordingly, all these petitions are converted into appeals and allowed in the above terms and the impugned judgments passed by the High Court are set aside.”

In view hereof, learned counsel states that the questions proposed may be decided in favour of the department in mutatis mutandis application of the judgment cited supra. 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. Office is instructed to place copy of this order in the connected file.”

It is sought that this reference may be disposed of for same reasons and upon same terms as aforesaid. 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(10) of the Customs Act, 1969.

Judge

Judge