

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA No. 594 of 2022
SCRA No. 595 of 2022
SCRA No. 596 of 2022
SCRA No. 597 of 2022
SCRA No. 598 of 2022
SCRA No. 599 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For order on office objection
2. For hearing of main case
3. For hearing of CMA No. 3277/2022

31.08.2026

Mr. Sardar Zafar Hussain, advocate for applicant.

Per learned counsel identical matters have been decided against the applicant department by the Supreme Court per order dated 02.11.2022, in Civil Appeal Nos. 114 & 115 of 2019 and Civil Petition No. 182-K of 2019 which reads as follows:-

“CMA No. 5560 of 2022

Through this application the ex-parte order is sought to be set aside. Mr. Khalid Javed Khan, ASC states that he is now representing respondent No. 2 and for the reasons mentioned in the said application the order declaring the said respondent ex-parte is recalled.

2. Civil Petition No. 182-K of 2019 has been belatedly filed with a delay of 48 days. The learned counsel for the petitioner states that he has filed an application (C.M.A No. 305-K of 2019) seeking condonation of the delay because the very same order has been assailed in cases which were filed within time and in which leave has been granted and in this regard has relied upon precedents of this Court. Mr. Khalid Javed Khan, learned counsel for the respondent, does not oppose the grant of this application because the same very order has been assailed in the two appeals. Therefore, CMA No. 305-K of 2019, seeking the delay to be condoned, is allowed.

3. Leave to appeal was granted 3. Leave to appeal was granted in Civil Petitions No. 100-K and 101-K of 2018 vide order dated 4 February because at that stage the learned counsel for the petitioner and the respondent had relied upon two different cases and rather than attending to in detail which case was applicable leave was granted. It was next contended that the contention of the petitioner with regard to section 19A of the Customs Act, 1969 (the Act) was not attended to in the impugned order. These two appeals and one petition assail the same judgment of the High Court of Sindh dated 6 February 2018 before this Court.

4. We have read the impugned order which has attended to the judgment in the case of Fecto Belarus Tractor v Government of Pakistan (PLD 2005 SC 605) whereupon the petitioner sought to rely and had also attended to section 19A of the Act.

5. In our opinion the learned Judges of the High Court had correctly discussed the ratio in the case of Fecto Belarus and had also correctly determined the circumstances under which section 19A of the Act was applicable.

6. We need not to narrate the facts of the case, repeat the respective contentions of the parties and the findings thereon because the same have been well laid out and properly determined in the impugned order. Learned counsel for the appellant/petitioner has not pointed out any illegality in the impugned order nor has been able to persuade us to take a different view from the one taken by the learned Judges of the High Court. Therefore, these appeals and the petition are dismissed, but with no order as to costs.

Learned counsel states that the said order is squarely binding upon this Court and the department, therefore, in mutatis mutandis application thereof, these reference applications may be dismissed. Order accordingly. Office is instructed to place copy of this order in connected matters.

A copy of this decision may be sent under seal of this Court and the signature of the Registration to the learned Customs Appellate Tribunal, as required per section 196(10) of the Customs Act, 1969.

Judge

Judge