ORDER SHEET

# IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 179 of 2022

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
|---|---|

1. For orders on office objection.
2. For hearing of main case.
3. For hearing of CMA No.1205/2022.

**04.11.2026**

Mr. Shahid Ali Qureshi, advocate for the applicant.
Ms. Dil Khurram Shaheen, advocate for the respondent.

Impugned judgment records as follows:

"6. Perused the case record and heard the arguments. Through instant appeal the appellant have challenged outright confiscation of the impugned vehicle carrying smuggled goods. The counsel appearing on behalf of the appellant have placed reliance on the recent amendments introduced in section 157(2) of Customs Act, 1969 whereby it has been provided that no option to redeem the vehicle carrying smuggled goods shall be given in case the vehicle has been found implicated in such an act for the third time. However, there is considerable debate whether the same conditions shall apply to vehicles which are found to have specially designed cavities for concealment of smuggled goods.

7. The learned counsel for the appellant is of the view that in light of aforesaid amendments in the Act, vehicles with secret cavities carrying smuggled goods for the first or second time can be given an option to pay fine in lieu of confiscation and released accordingly.

8. I have given due consideration to this matter and in my view the intent of the legislature while making the above changes was to give benefit of doubt to the owners of vehicles carrying smuggled goods who might have been under the impression that they were carrying legally imported goods / locally produced goods and were not aware of the implications. That is why they have been given two shots at proving their innocence and hence an option of paying redemption fine for the first two offences of this kind. However, in case of secret cavities it is obvious that these have been designed specifically for concealing the smuggled goods and therefore it is easy to establish malafide against owner of such vehicles. The parliament would naturally not like to extend any concession to such individuals who deliberately take part in such illegal activities. Therefore, in my view the Adjudication Officers can refuse the request for redemption of such vehicles legitimately under section 157 of the Customs Act, 1969 in view of the facts of the case.

9. From the foregoing discussion, it is obvious that while adjudicating such cases, the Adjudication Officers have to decide first the mens rea on the part of owners of such vehicles before considering their request for redemption under Section 181 of Customs Act, 1969. In this particular case, the counsel for appellant asserts that the cavity found and referred to by the respondent Collectorate is a storage place designed for storing extra fuel and other goods for the use of driver and his helpers.

10. In view of above facts, in all fairness it would be too harsh to order outright confiscation of impugned vehicle and therefore giving the benefit of doubt and on compassionate grounds, the appellant is allowed to redeem the impugned vehicle under Section 181 of Customs Act, 1969 on payment of redemption fine equal to 20% of the value of vehicle to be ascertained in the usual manner by the Collectorate alongwith a penalty of Rs.20,000/-. The impugned Order-in-Original No.139/2021-22 dated 03.11.2021 is modified to the above extent only. The Collectorate shall however, remove the secret cavity, if any and record the full particulars of the impugned vehicle as well as its owner before release of the vehicle,

11. Judgment passed and announced accordingly."

Following questions of law are pressed for determination:

A. Whether the learned Tribunal was justified in law by releasing the vehicle used in transporting the smuggled goods on payment of the redemption fine in violation of SRO 499(I)/2009 read with section 181 of the Customs Act, 1969 and being contrary to various judgments of the higher courts and the apex court?

B. Whether the learned Tribunal was justified in law by releasing the offending vehicle on payment of the redemption of fine on compassionate grounds and whether any compassionate consideration was a legally permissible for release of the vehicle?

Learned counsel for the applicant states that this is no case of first impression and the issue has already been decided in favour of the applicant department in successive judgments including 2025 SCMR 1912, 2026 SCMR 885. Learned counsel states that in mutatis mutandis application of the binding authorities, the question be answered in favour of applicant department and the impugned judgment be set aside. Learned counsel for respondent articulates o cavil to the record. 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(10) of the Customs Act, 1969.

Judge

Judge

Khuhro/PS