

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
 Special Customs Reference Application (“SCRA”) No. 898 / 2017 a/w  
 SCRA NO. 14 to 18 /2018

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Date Order with signature of Judge

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**Present: Mr. Justice Muhammad Junaid Ghaffar**  
**Mr. Justice Agha Faisal**

**Applicant:** **Director General Customs Valuation,**  
**Customs House, Karachi.**  
**Through Mr. Iqbal M. Khurram, Advocate.**

**Respondents:** **M/s. Anees & Sons & Others**

**Date of hearing:** **09.03.2021**

**Date of Order:** **09.03.2021**

**ORDER**

**Muhammad Junaid Ghaffar, J:** These Reference Applications have been filed impugning order dated 21.08.2017 passed by the Customs Appellate Tribunal in Customs Appeal No. K-907 of 2016 and other connected matters proposing the following Questions of Law:-

- “A) Whether under the facts and circumstances of the case, while directing the Directorate General Customs Valuation to assess the appellants goods of specific period as per previous Valuation Ruling No. 614/2013 dated 29.11.2013 which is superseded / rescinded by Valuation Ruling No. 816/2016 dated 25.02.20216 the learned Appellate Tribunal has erred in law and mis-interpreted in particular Sections 25-A(4) of Customs Act 1969 read with relevant Rules and Notifications issued for predetermination of customs value?
- B) Whether under the facts and circumstances of the case, while directing the Directorate General Customs Valuation to assess the appellants goods of specific period as per previous Valuation Ruling No. 614/2013 dated 29.11.2013 in presence of valid Valuation Ruling No. 816/2016 dated 25.02.2016 without setting aside the existing Valuation Ruling and subsequent Order-in-Revision the learned Appellate Tribunal has erred in law and mis-interpreted in particular Sections 25-D and 25-A and 31-A of Customs Act, 1969?
- C) Whether under the facts and circumstances of the case, the learned Appellate Tribunal has erred in law while passing impugned order and completely mis-interpreted Sections 25-D and 25A, 30, 30A and 31A of

Customs Act, 1969 whereby the Director General being special forum and having technical expertise has power under section 25A(3) and 25D of Custom Act, 1969 for purpose of valuation fixation?

- D) Whether the learned Appellate Tribunal can indulge in selective reading of the order of the judicial forums, and non-reading of the record available in the instant case, and ignore the most vital part of it to utter deterrent of revenue and have forced out an interpretation to the benefit of an individual?

2. Learned Counsel for the Applicant has read out the order and submits that since a new Valuation Ruling No. 816/2016 was issued on 25.02.2016 therefore, the same was applied on the Goods Declaration filed by the Respondents and the Tribunal has erred in holding that the assessment ought to have been made on the basis of previous Valuation Ruling No. 614/2013 dated 29.11.2013. He has prayed for answering the Questions in favour of the Department.

3. We have heard the learned Counsel and perused the record. Insofar as SCRA No. 898/2017 is concerned, the same was filed by the Applicant Department by joining all Respondents together, and vide order dated 26.03.2018 the said Respondents were deleted except one, and the Applicant Department was permitted to file separate Reference Applications; however, subject to the law of limitation. In other connected Reference Applications the Applicant Department has filed respective condonation applications and in view of the fact that the first Reference Application was within time and it pertains to the same impugned order, the delay in filing of other Reference Applications is hereby condoned. Notice was ordered but the bailiff report reflects that the given address is incorrect and upon query the bailiff was informed that no one is available on the said address doing business in the name so mentioned on the memo of Reference Application. Hence, no further notice required.

4. Insofar as the impugned order is concerned, the same appears to have relied upon Section 30A<sup>1</sup> of the Customs Act, 1969 in

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<sup>1</sup> [30A. Date of determination of rate of duty for clearance through the Customs Computerized System.- Subject to the provisions of section 155A, the rate of duty applicable to any imported or exported goods if cleared through the Customs Computerized System, shall be the rate of duty in force on;-  
(a) the date of payment of duty;  
(b) in case the goods are not chargeable to duty, the date on which the goods declaration is filed with Customs  
(c) Omitted.

allowing the Appeals of the Respondents on the ground that since they had filed Goods Declaration on 25.02.2016 on which date the new Valuation Ruling was issued; hence, assessment to the extent of the present Respondents was to be made on the basis of the earlier Valuation Ruling No. 614/2013. However, on perusal of Section 30A *ibid*, we are not inclined to agree with the findings of the learned Tribunal inasmuch as Section 30A only deals with the applicability of *rate of duty* and does not cater for the word “*value*”. Moreover, even otherwise, if at all Section 30A is applicable, it provides that the rate of duty applicable to any imported goods being cleared through the Customs Computerized System shall be the rate of duty in force on the date of payment of duty, and not from the date of filing of Goods Declaration as erroneously noted by the learned Tribunal. Here, in this matter, it has neither been appreciated by the Tribunal nor anything is on record to even remotely suggest that the Respondents had paid their respective customs duties either before or even on 25.2.2016. Therefore, in our considered view, insofar as the case of Respondents is concerned, same does not fall under Section 30A of the Customs Act, 1969.

5. For the sake of clarity, it may also be relevant to observe that Goods Declaration filed under Section 30 of the Customs Act, 1969 (under the erstwhile manual system and still in force; though rarely) previously up till 1999, it catered to both i.e. the date of determination of *value* as well as *rate of duty*. However, post 2000, the word *value* stands omitted from the substituted provision, and now the amended provision only caters to the extent of *rate of import* duty which in respect of goods declaration filed under the manual system, shall be, the rate of duty in force when the Goods Declaration for Home consumption is manifested under Section 79 of the Act. Therefore, we are of the view that the findings of the Tribunal to this extent cannot be sustained. The Questions so proposed needs to be rephrased, as only one question is relevant that “*Whether in the facts and circumstances of the case, the Tribunal was justified in holding that the assessment of the Respondents consignments for which goods*

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Provided that where a goods declaration has been filed in advance of the arrival of the conveyance by which the goods have been imported, the relevant date for the purposes of this section shall be the date on which the manifest of the conveyance is filed at the customs-station of first entry:

Provided further that the [Board, with approval of the Federal Minister-in-charge] may, by notification in the official Gazette, specify any other date for the determination of rate of duty in respect of any goods or class of goods.]

*declarations were filed on 25.2.2016 was to be made under Valuation Ruling No. 614/2013”* and the same is answered in negative; in favour of the Applicant and against the Respondents. As a consequence thereof, the impugned order is hereby set aside. Let copy of this Order be sent to Customs Appellate Tribunal in terms of sub-section (5) of Section 196 of the Customs Act, 1969, with further directions to the Office to place copy of this order in connected Reference applications as above.

**J U D G E**

**J U D G E**

Arshad/