

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No.466 of 2017

Collector of Customs
Versus
Abdullah Paracha & others

Date	Order with signature of Judge
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1. For hearing of main case
2. For hearing of CMA 2919/17

Dated: 25.10.2021

Mr. Khalid Rajpar for applicant.

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In this Special Custom Reference Application following questions have been proposed by the applicant department:-

1. Whether on the facts and circumstances of the case, the learned Bench of Customs Appellate Tribunal did not err in law and has released the smuggled black tea on the basis of fake and forged sales tax invoice which does not speak about the grade/garden of seized black tea?
2. Whether the provisions of Section 2(a) of the Customs Act, 1969 were rightly interpreted and applied by the learned Customs Appellate Tribunal, Karachi?
3. Whether on the facts and circumstances of the case, the learned Appellate Tribunal has not decided the case on misreading and non-reading of law and facts?

Record reveals that a show-cause notice was issued on 24.08.2015 mentioning therein that around 16 bags carrying 1170 Kilo Grams of “black tea” were detained on 09.05.2015 by the applicant which belong to the respondent. It further reveals that investigation was initiated when respondent furnished goods declaration (GD) in support of the proof of lawful import, acknowledged by the department. The show-cause notice only contains these limited facts. Applicant department however concluded that the respondent failed to justify any other

explanation regarding lawful import of such goods (black tea). It took them almost 98 days to arrive at such conclusion after the seizure that took place on 19.05.2015.

On the aforesaid set of facts and the questions, as proposed and reproduced above, the department's/ applicant's counsel was heard and the record was perused.

There is absolutely no justification for the department to file this Reference since goods declaration that reflects and identify the goods was filed with the department. The only justification provided by the department was that the respondents have not justified/put forwarded any other explanation and it was asserted by the department that the sales tax invoices do not mention the name of the "tea garden" to identify the seized tea. We may observe that this is a novel proposition rendered by the department's counsel as once the importability of the goods was justified by providing goods declaration for its lawful import then it does not lie in their mouth to raise this absurd and novel proposition that the sales tax invoices do not mention the name of the "tea garden" where the subject tea was grown/harvested. There can hardly be a question of law arising out of the impugned judgment. The proposed questions are thus answered accordingly i.e. in favour of the respondent and against the applicant, in result whereof instant Special Customs Reference Application stands dismissed along with listed application.

A copy of the order be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal Inland Revenue Karachi in terms of Section 196(5) of Customs Act, 1969.

Judge

Judge