

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Special Customs Reference Application No.851 of 2017

Collector of Customs
Versus
M/s Fahad Bashir Bangash & another

Date	Order with signature of Judge
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1. For orders on CMA 3669/17
2. For hearing of main case
3. For orders on CMA 3670/17

Dated: 29.10.2021

Mr. Munawar Ali Memon for applicant.

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Mr. Munawar Ali Memon Advocate has filed his Vakalatnama on behalf of applicant, which is taken on record, and has argued the matter.

He has gone through the impugned order, specially paragraph 9 onwards which discloses that the record produced and confirmed by the Principal Appraiser, Customs Department vide order dated 11.09.2015 confirmed that as per the computer record vehicle was legally imported and cleared through Collector after payment of lawful duties and taxes vide receipt No.C-1554 dated 07.12.1992. This letter was also re-confirmed by the seizing agency, details of which have already been seen by the forum proceedings with the matter.

The reliance on the forensic report is not impressive as this was not the case of the department in show-cause notice; they (the department) never raised any allegation as to tampering either in chassis number or engine number. The only question raised was that it was a smuggled one and to overcome such allegation sufficient documents are

available on record for the Tribunal to reach to a lawful conclusion, which it has done. The applicant has proposed as many as ten questions however there appears to be two following questions, which at the best could be considered:-

1. Whether the impugned order of the Appellate Tribunal is based on misinterpretation and without proper application of mind in the interpretation of sections 2(s) and 16 of Customs Act, 1969, defining the intent of law?
2. Whether the Appellate Tribunal has not erred in law by giving undue benefit to the applicant by releasing the smuggled vehicle having tampered chassis which otherwise under the laws of land cannot be registered with the excise authorities and ply on roads?

At the most two proposed questions referred above could be argued by the applicant and which, in view of above discussion, are being answered in negative i.e. against the applicant and in favour of respondent. No interference as such is required in the impugned order and instant Special Customs Reference Application is accordingly dismissed along with listed applications.

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