

IN THE HIGH COURT OF SINDH AT KARACHI

(Extraordinary Reference Jurisdiction)

Special C.R.A. No. 16 of 2016

Date	Order with signature of Judge
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Present:

**Mr. Justice Aqeel Ahmed Abbasi
Mr. Justice Zulfiqar Ahmed Khan.**

Fresh Case

1. For orders on Mic. No. 130/2016.
2. For hearing of Main Case.

04.08.2020:

Mr. Muhammad Adeel Awan, advocate for applicant.

ORDER

1. Through instant Reference Application, following six questions have been proposed, which according to learned counsel for the applicant, are questions of law, arising from the impugned order passed by the Customs Appellate Tribunal, Bench-II, Karachi in Customs Appeal No. K-892/2014. The questions read as follows:-

“1. Whether the proceedings of adjudication were maintainable against the Export GD, particularly when no Customs Duty was leviable on export of goods and no refund was export of goods and no refund was filed by the applicant?”

2, Whether the declaration in Export GD, prior to allow gate-in of the consignment, is hit by section 32 of the Customs Act, 1969, being mis-declaration?

3. Whether the examination of the consignment, held twice by the Customs Staff, and allowed leading on the vessel by the Customs is hit by section 32-A of the Customs Act, 1969?

4. Whether the adjudication in case of alleged over-declaration is authorized under section 179 of the Customs Act, 1969?

5. Whether the adjudication by the respondent No.2 for mischief under sections

3, 6, 7 & 36 of the Sales Tax Act, 1990; section 148 of the Income Tax Ordinance, 2001, and section 3(1) of the Import & Export (Control) Act, 1950, is competent under section 179 of the Customs Act, 1969?

6. Whether the Directorate of Intelligence & Investigation i.e. the respondent No.3 has jurisdiction under section 3-E of the Customs Act, 1969 to embark upon the case and give their findings on quantity of the goods behind back of the Customs Staff and the exporter?"

2. After having read out the above question and the impugned order passed by the Customs Appellate Tribunal as well as the orders of the two authorities below, it appears that there is concurrent findings against the applicant based on peculiar facts and circumstances of the case, which clearly reflects that this is the case of mis-declaration of export quantity, whereas, no plausible explanation in this regard was furnished by the applicant, either before the adjudicating authorities or even before the appellate forum, including this Court. Moreover, the questions proposed through instant Reference Application are questions of facts and do not give rise to any question of law, which may require any opinion of this Court, while exercising its reference jurisdiction under Section 196 of the Customs Act, 1969.

3. Accordingly, we do not find any substance in the instant Reference Application, which is devoid of any merits, therefore, dismissed in limine alongwith listed application

JUDGE

JUDGE

A.S.