

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

Special Customs Reference Applications Nos. 414 to 432 of 2016

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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 of Customs Valuation  
Through Mr. Kashif Nazeer, Advocate.

**Respondents:** M/s. Javed Garments & 18 others.  
Through Mr. Zain A. Jatoi, Advocate  
alongwith Mr. Waseemurrehman,  
Advocate.

**Date of hearing:** 25.01.2021 & 26.01.2021.

**Date of Order:** 26.01.2021.

**Muhammad Junaid Ghaffar, J:** Through these Reference Applications, the Applicant has impugned Order dated 27.06.2016 passed by the Customs Appellate Tribunal in Customs Appeal Nos. 1254 of 2016 (M/s. Javed Garments vs. The Director General, Directorate General of Customs Valuation & another) and connected matters (Total 19 appeals), proposing the following questions of law:-

- i. Whether the Learned Appellate Tribunal by setting aside the impugned Valuation Ruling No.859 of 2016 and directing the authorities to release the Respondent's consignments by applying 4 years old Valuation Ruling No. 421/2012 dated 30.01.2012, completely misread the law, rules and principle as enunciated and settled in the case of Sadia Jabbar (reported at PTCL 2014 CL 537)?
- ii. Whether the direction / order of the Hon'ble Tribunal to release the Respondent's consignments by applying 4 years old Valuation Ruling No. 421/2012 (dated 30.01.2012) is an order in excess of jurisdiction conferred under the Statute as well as in conflict to the law settled by this Hon'ble Court in the cases of Sadia Jabbar (reported at PTCL 2014 CL 537) and Danish Jahangir (reported at 2016 PTD 702)?
- iii. Whether the Hon'ble Bench of the Appellate Tribunal completely misread the law and facts and failed to appreciate that the impugned Valuation Ruling No.859/2016 was squarely in accordance with law, rules and principle settled by this Hon'ble court in the case of Sadia Jabbar (reported at PTCL 2014 CL 537)?
- iv. Whether the Hon'ble Tribunal erred in facts, as in the presence of a fresh Valuation Ruling No.872/2016 dated 21.06.2016 (superseding VR No.531/2013) of Aero-soft and Similar brands of Footwear of Thailand origin, the Hon'ble Tribunal erroneously observed in the order that the values notified vide VR No. 531/2013 dated 07.01.2013, have not been disturbed or modified?

2. Learned Counsel for the Applicant has read out the order of the Tribunal and submits that though ultimately the matter was

remanded to the department for issuing a fresh Valuation Ruling in accordance with the relevant provisions of law; however, at the same time directions were issued to release the consignments of respondents by applying Valuation Ruling No. 421/2012 dated 30.01.2012, which according to learned Counsel is against the law and in violation of judgments of this Court<sup>1</sup>. He submits that the Applicant's case is presently only to the extent of these directions.

3. On the other hand, learned Counsel for the respondents concedes to this effect that such order for making the assessment on the Valuation Ruling dated 30.01.2012 cannot be sustained.

4. We have heard both the learned Counsel and perused the record. Since ultimately the learned Tribunal after assigning reasons for setting aside the impugned Valuation Ruling No. 859/2016 dated 25.05.2016 had remanded the matter for issuing a fresh Valuation Ruling, therefore, in our considered view there is only one question, which arises out of the order of the Tribunal that "*whether after setting aside the impugned Valuation Ruling, the Tribunal could have given direction to release the respondents' consignments in terms of Valuation Ruling No. 421/2012 dated 30.01.2012*" and in view of the above, the same is answered in negative inasmuch as in the interregnum the assessment could only be made in terms of s.25 of the Customs Act, 1969. Accordingly, by consent the impugned Order stands modified to that extent. Let copy of this order be sent to Appellate Tribunal Customs in terms of sub-section (5) of Section 196 of Customs Act, 1969.

Office to place copy of this order in connected Reference applications as above.

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<sup>1</sup> PTCL 2014 CL 537 (Sadia Jabbar vs. Federation of Pakistan and others) and 2016 PTD 702 (Danish Jahangir v. the Federation of Pakistan through Secretary/Chairman and 2 others).