

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

Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Agha Faisal

Special Customs Reference Application No. 275 of 2010

The Collector of Customs  
Versus  
M/s A.U. Technologies & another

Date	Order with signature of Judge
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For hearing of main case.

**Dated: 20.08.2021**

Mr. Aamir Raza for applicants.  
None for respondents.

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**Muhammad Shafi Siddiqui, J.**- Against judgment dated 21.06.2010 passed by Customs Excise & Sales Tax Appellate Tribunal Lahore, Camp at Karachi setting aside Order-in-Original and the Order-in-Appeal passed by Collector (Appeals), following questions of law are proposed by the Collector of Customs/applicant in this Special Customs Reference Application:-

1. *Whether appellant Tribunal has erred in observing that the Valuation Ruling No.22/2008 dated 11.02.2008 (perhaps 11.03.2008) issued by the Directorate General of Customs Valuation “was not as per law”, (perhaps was not applicable)?*
2. *Whether the demand raised against Valuation Ruling “was not as per law”, (perhaps not in accordance with law)?*

We have heard learned counsel for the applicant, whereas no one has turned up on behalf of the respondents, and perused the material available on record.

Brief facts are that respondent No.1 imported consignments of Bar Code Reader from Singapore at declared value respectively. The consignments reached at port on 15.09.2007 whereas Goods Declaration

was filed on 18.09.2007 through clearing agent for clearance thereof. The goods were released provisionally under Section 81 of the Customs Act, 1969 and the matter was referred to Valuation Department for determination of correct customs value for levying duties and taxes accordingly. The Directorate General of Valuation applied Ruling No.22/2008 dated 11.03.2008 and determined the value of the goods higher than the one declared, which resulted into levying of duties and taxes amounting to Rs.119,160/- (Sales Tax 98,471 + Income Tax 7,550 + additional sales tax Rs.13,131/-). The same was maintained in terms of Order-in-Original.

The Order-in-Original was challenged before the Collectorate of Customs by the respondent No.1 and it met the same fate in terms of Order-in-Appeal whereas the tribunal on appeal preferred by the respondent No.1 considered the case and set aside the impugned orders (Order-in-Original and Order-in-Appeal) by observing that the origin of the goods was not the same. Hence, this reference application is filed by the applicant department.

From perusal of material available on record, the questions, as proposed by the applicant department, do not appear to be the questions of law. It could have been the questions in appeal but not in Special Customs Reference Application where only questions of law arising out of the Tribunal Order could be taken into consideration. The facts of the case are that the consignments were imported on 15.09.2007 and the Goods Declaration was filed on 18.09.2007 whereas the Valuation Ruling No.22/2008, is of 11.03.2008, and hence became a convincing tool for the officers. However, there is no concrete evidence as to the value of the goods arrived at Port on 15.09.2007 for which Goods Declaration was filed on 18.09.2007. The ibid valuation ruling was later in time that it came after about six months of the arrival of the

goods. So the question before the Tribunal was whether there was sufficient evidence before Valuation Department for adjudging the value of the goods in terms of the subject Valuation Ruling which was later in time (above six months).

We would not like to enter into a debate as to whether the goods were of China origin or Singapore origin as this is not a question before us, however, the questions proposed by the applicant department do not germane to the root of the cause as firstly the subject Valuation Ruling itself does not demonstrate the value of the subject goods when they arrived and hence it become a question of fact rather than law and the Tribunal was right in observing that the subject Valuation Ruling was not applicable.

So far as rest of the conclusion of the Tribunal is concerned, it was the prerogative of the Tribunal being the Customs Tribunal to have decided the questions in accordance with law, which it did as is apparent from the record and/or impugned order. Hence the proposed questions are not arising out of the judgment passed by the Tribunal and even if it is stretch down for consideration, the Tribunal has rightly exercised its jurisdiction. No interference as such is required in the impugned judgment and consequently the questions are answered in 'Negative' in favour of respondent No.1 and against the applicant department. The special customs reference application is accordingly dismissed.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to learned Customs Excise & Sales Tax Appellate Tribunal Lahore, Camp at Karachi, as required by section 47(5) of Sales Tax Act, 1990.

**Judge**

**Judge**