

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Muhammad Shafi Siddiqui, J.

Agha Faisal, J.

SCRA 182 of 2017 : The Collector of Customs vs. Sangerwal Cosmetics

For the Applicant : Mr. Khalid Rajpar, Advocate

For the Respondent : Mr. Muhammad Adeel Awan, Advocate

Date of hearing : 16.08.2021

Date of announcement : 16.08.2021

ORDER

This reference was filed in respect of the Judgment of the learned Customs Appellate Tribunal dated 25.03.2017 ('Impugned Judgment'). Learned counsel for the respondent had pointed out that the essential question arising herein had already been adjudicated by a Division Bench of this court in Judgment dated 04.02.2021 in SCRA 727 of 2019 and connected matters¹.

2. While various questions had been proposed on behalf of the applicant, *prima facie* being argumentative / raising factual controversies², it is our considered view that the only question arising herein was "*Whether in the facts and circumstances of the case (at least prior to Finance Act, 2017) could goods be assessed under section 25 of the Customs Act, 1969, on the basis of a transactional value, when a Valuation Ruling, issued in terms of section 25A of the Customs Act, 1969, was already in field*". Therefore, respectfully, we hereby reformulate³ the question to be answered herein, in terms of the verbiage supra.

3. The aforementioned question has already been determined vide judgment of this court dated 04.02.2021 in SCRA 727 of 2019, along with connected matters, and in *mutatis mutandis* application of the reasoning and rationale assigned therein we are of the considered view that the question before us is answered in the negative, in favor of the respondent and against the applicant. This reference is disposed of accordingly.

4. A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

JUDGE

JUDGE

Khuhro/PA

¹ Applicant's learned counsel remained unable to articulate any cavil in such regard.

² Per *Munib Akhtar J* in *Collector of Customs vs. Mazhar ul Islam* reported as 2011 PTD 2577 – Findings of fact cannot be challenged in reference jurisdiction.

³ *A. P. Moller Maersk & Others vs. Commissioner Inland Revenue & Others* reported as 2020 PTD 1614; *Commissioner (Legal) Inland Revenue vs. E.N.I. Pakistan (M) Limited, Karachi* reported as 2011 PTD 476; *Commissioner Inland Revenue, Zone-II, Karachi vs. Kassim Textile Mills (Private) Limited, Karachi* reported as 2013 PTD 1420.