

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

Special Customs Reference Application No. 1236 of 2015

Collector of Customs  
Versus  
M/s Singer Pakistan

Date	Order with signature of Judge
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1. For orders on office objection a/w reply as 'A'
2. For orders on CMA 3314/15
3. For hearing of main case.

**Dated: 07.09.2021**

Mr. Kashif Nazeer for applicant.

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This Special Customs Reference Application involves a show-cause notice dated 21.02.2014 followed by an Order-in-Original No.50 of 2014-2015 and judgment of the Customs Appellate Tribunal in Customs Appeal No.K-1113 of 2014 and Customs Appeal No.K-661 of 2015.

We have heard learned counsel appearing for the applicant and perused the record.

The subject consignment, as imported by the respondent, pertains to the regime prior to the amendments carried out in Section 32 of the Customs Act, 1969. The main controversy was that custom authorities acting as a collecting agent of customs, excise, sales tax have jurisdiction under the law and accordingly respective Tribunals were operating and functioning in the like manner. The show-cause notice for short levy of the respective taxes under income tax, sales tax and excise etc. are to be independently resurrected in their own regime. The customs at the time of import acted as a collecting agent however once the goods have been released then the respective/concerned

department would act on their own hierarchy for the recovery of these taxes.

Income Tax Ordinance, 2001 as well as Sales Tax Act, 1990 provides a specific procedure for collection of taxes and have their respective forums for enforcing and recovering the short payment made by the importers. Hence, the recovery of un-collected taxes could not be entrusted upon customs officials once the goods have been imported and out of charge. This was however a situation prior to the amendment carried out under section 32 of the Customs Act, 1969 on the basis of which the subject show-cause notice was issued on 21.02.2014, which was issued on the basis of a contravention report of 10.12.2012 regarding concessional rates in income tax at the rate of 3% on the import of raw material. Thus prior to 2014 before the amendment was carried out in section 32 the object could not have been legitimately carried out. The proposed moot question No.1 i.e. "Whether the Appellate Tribunal has not erred in law by not considering that the powers for recovery of short levied tax is vested to customs authorities in terms of Section 32 read with Section 202 of the Customs Act?, as such is answered in negative in favour of respondent and against the applicant, leaving the remaining questions, as proposed by the applicant redundant. Resultantly this Special Customs Reference Application is dismissed along with listed application.

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**