

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

SCRA 363 of 2020 : Director, Director General Intelligence & Investigation (Customs) Customs House Regional office Hyderabad vs. Aslam Ali s/o Mubarak Ali

Const. P. D-3586 of 2020: Aslam Ali vs.The Federation of Pakistan and others

For the Applicant : Mr. Muhammad Rashid Arfi, Advocate

For the Petitioner : Ms. Dil-Khurram Shaheen, Advocate

For the Respondents : Mr. Kafeel Ahmed Abbasi, DAG/Advocate

Date of hearing : 14.04.2021

Date of announcement : 14.04.2021

ORDER

Muhammad Junaid Ghafar, J. Through this Reference Application the applicant has impugned order dated 07.04.2020, passed in Customs Appeal No.H-40/2020.

2. At the very outset after going through the record we have noticed that the respondent No.1 in whose favour the Tribunal has passed the impugned order had never appeared before the adjudicating authority as reflected from the Order-in-Original dated 22.10.2019, and the Tribunal has even considered materials and documents which were never presented before the original authority. In that case we are of the view that the Tribunal instead of considering the same and giving its findings ought to have remanded it to the original authority for considering the said documents, whereas, even otherwise, the order-in-original was an ex-parte order. In the circumstances,

the impugned order dated 07.04.2020 and the Order-in-Original dated 22.10.2019 are hereby set-aside to the extent of respondent No.1 and the matter is remanded to the adjudicating authority before whom the respondent No.1 shall appear and place all materials which he had placed before the Tribunal; whereafter, the said authority will pass appropriate order-in-original in accordance with law preferably within a period of 60 days from today.

3. The reference application is allowed in the above terms whereas, Constitution Petition No.D-3586 of 2020, filed by respondent No.1 stands disposed of in these terms.

JUDGE

JUDGE