

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

SCRAs No.653 to 661 of 2016

Date	Order with signature of Judge(s)
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1. For orders on office objection No.17.
2. For orders on CMA No.3953/2016.
3. For hearing of main case.
4. For orders on CMA No.3954/2016.

**19.11.2020**

Dr. Shah Nawaz Memon, advocate for the applicants.  
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Through these reference applications the applicant department has impugned the order dated 26.08.2016, passed by the Customs Appellate Tribunal Karachi in Customs Appeal No.K-1659 of 2016 and other connected matters proposing the following question of law:

- 1) Whether in terms of Section 194-B of the Act, the learned Appellate Tribunal have jurisdiction to pass order for provisional assessment/release of a consignment, under Section 81 of the Act?
- 2) Whether in terms of Section 194-B of the Act, the Appellate Tribunal have jurisdiction to pass an order for a future consignment for which GD was not filed and is/was not part of the appeal filed under Section 194-A of the Act?
- 3) Whether in terms of Section 194-B read with Section 194-C(7) of the Act, the Appellate Tribunal has powers to pass an injunction order like Honourable High Court for provisional released of the imported goods?
- 4) Whether in the light of facts & circumstances of the case and considering the Honourable High Court's judgment/order passed in the D-6918/2015, D-1082/2016 and many other, including the reported judgment of M/s. PM International Vs Federation of Pakistan & Others (2010 PTD 239) the Appellate Tribunal has not made an error of law to ignore the Honourable High Court's orders/directions on the identical facts and proposition of law?
- 5) Whether the Appellate Tribunal has justification to equate provisional release and "stay of recovery" at par?

Learned counsel for the applicant submits that the Tribunal has no jurisdiction to pass any interim orders directing the release of

the consignments of the appellant, hence, the impugned order is void and liable to be set aside.

We have heard the learned counsel. At the very outset we have confronted the learned counsel for the applicant as to maintainability of these reference applications under Section 196 of the Customs Act, 1969 as apparently the said reference can only be filed against the order of the Appellate Tribunal passed under sub-section (3) of Section 194-B, Customs Act, 1969, which provides that the Tribunal has to send a copy of every order passed by it under this section, **disposing of the appeal** to the respective parties and since the order impugned herein is not an **order of disposal** and to this learned counsel for the applicant has not been able to satisfactorily respond.

In these circumstances, we are of the view that these reference applications are mis-conceived as the jurisdiction conferred on this court under Section 196 of the Customs Act, 1969, is only in respect of an order passed under Section 194-B(3) whereby an appeal is finally disposed of. Accordingly, these reference applications being not maintainable are dismissed in limine.

JUDGE

JUDGE