

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. NO. D-2159 / 2016 a/w  
C. P. NO. D-726 / 2017

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Date Order with signature of Judge

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**PRIORITY.**

- 1) For orders on CMA No. 22030/2022.
- 2) For hearing of CMA No. 4861/2018.
- 3) For hearing of CMA No. 2257/2017.
- 4) For hearing of CMA No. 5763/2017.
- 5) For hearing of CMA No. 2453/2017.
- 6) For hearing of CMA No. 9656/2016.
- 7) For hearing of main case.

**12.10.2022.**

Mr. Abdul Ghaffar Khan, Advocate for Petitioners.  
Ms. Afsheen Aman, Advocate for Respondent  
in C. P. No. D-726/2017.  
None for Respondents in CP No.2159 of 2016

In both these Petitions the issue raised is in respect of correct classification of goods in question. By way of ad-interim orders, the consignments have been released from time to time against securities furnished either before the department or the Nazir of this Court.

Learned Counsel appearing on behalf of the Petitioners submits that during pendency of these petitions, the said issue has now been decided by this bench in Special Custom Reference Application No. 426 of 2019 and other connected matters vide Judgment dated 08.04.2021 (also reported as *United Refrigeration Industries Limited v Director, Directorate of Intelligence and Investigation, FBR-2021 PTD 1430*) whereby, the stance of the Applicants / Petitioners that classification of the goods in question under HS Code 3903.3000 pursuant to Public Notice No.09 of 2017 dated 12.6.2017 would only be applicable prospectively on consignments for which Goods Declarations were filed on or after 12.6.2017 has been accepted, whereas, the Respondents being aggrieved had approached the Hon'ble Supreme Court by way of Civil Petition No. 830-K of 2021 and other connected matters and vide order dated 16.06.2022 the Hon'ble Supreme Court has been pleased to refuse leave against the said Judgment. Ms. Afsheen Aman appears in C. P. No. D-726/2017 and concedes to the contention of the Petitioners Counsel, whereas, no one has turned up on behalf of the Department despite being on notice.

In view of the above both these Petitions are allowed for the reasons assigned in the above Reference Application(s) to the extent that classification of the goods in question under HS Code 3903.3000 as notified vide Public Notice No.09 of 2017 dated 12.6.2017 would only be applicable prospectively on consignments for which Goods Declarations were filed on or after 12.6.2017, and all pending proceedings initiated by the department pursuant to this Public Notice shall stand abated. The sureties furnished pursuant to ad-interim orders passed by this Court from time to time stand discharged; the same shall be released to the Petitioners accordingly. Office is directed to place copy of this order in above connected Petition.

**J U D G E**

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Arshad/