

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

Special Customs Reference Application No.1015 of 2023  
Special Customs Reference Application No.1016 of 2023

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Date	Order with signature of Judge(s)
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1. For orders on office objections No.7 & 25.
2. For hearing of main case.
3. For hearing of CMA No.1746/2023.

**01.06.2023**

Mr. Khalid Mehmood Siddiqui, advocate for the applicant.  
Barrister Muhammad Awais Shaikh, advocate for the respondent No.1.  
Ms. Mehk Majeed, Deputy Collector MCC East, Karachi.  
Malik Muhammad Hashim, Superintendent, MCC East, Karachi.

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As against the judgment of the Appellate Tribunal passed in Customs Appeals No.K-200/2023 & K-201/2023, this reference was filed on the following question of law:

*“Whether the Export GDs are not covered under the term “documents” as mentioned in Section 2(kka) of the Customs Act, 1969?”*

At the very outset, we have enquired from Mr. Khalid Mehmood Siddiqui, advocate that at the most, by an order impugned in this reference the matter was remanded to the concerned Collectorate to finalize the assessment in terms of Section 25 of the Customs Act, 1969 and he/department cannot consider itself to be aggrieved of it. The only response that we have received that there are certain observations which would come in the way and were made unnecessarily, with regard to powers likely to be exercised by the Collectorate while acting in terms of Section 25 of the Customs Act for assessment. Learned counsel has relied upon the initial paragraph of last page of the impugned order which discussed the GD filed with China Customs, which per learned counsel would deprive the Customs official, in terms of Section 25 of the Customs Act, which talks about the price actually paid and payable for the goods when sold for export to Pakistan.

Prima facie this observation could exclude the documents prepared at the time when the goods were exported from China to Pakistan. This document could lawfully be considered when the assessment order is likely to be passed in terms of Section 25 of the Customs Act by the concerned Collectorate.

With this understanding of law, although case was remanded to concerned Collectorate for assessment, but we are of the view that impugned observation might cause prejudice to the rights exercisable under Section 25 of the Customs Act. The Collectorate shall act in terms of Section 25 of the Customs Act and may pass an order, without being influenced by any observation of the Appellate Tribunal. Question is answered accordingly in favour of the applicant and against the respondent.

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.

Office is instructed to place copy of this order in the connected reference application listed above.

JUDGE

JUDGE