

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Special Customs Reference Application No.121 of 2021

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| Date | Order with signature of Judge |
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**07.04.2023**

Mr. Khalid Rajpar, advocate for the applicant.  
Mr. Imran Iqbal Khan, advocate and Mr. Anil Zia, advocate for the respondent No.1.

The applicant has impugned the judgment of the learned Customs Appellate Tribunal at Karachi dated 08.05.2021 in Customs Appeal H-3755 of 2021 (“Impugned Judgment”). Per applicant’s learned counsel, the question of limitation was not addressed by the learned Tribunal and further that the learned Tribunal failed to appreciate the evidence in its proper perspective, hence, the exercise be conducted afresh by this Court, albeit in reference jurisdiction.

Perusal of the Impugned Judgment demonstrates that the learned Tribunal framed the first point for determination on the issue of limitation. Post deliberation, the Tribunal concluded that the adjudication was time barred. The judgment further records that on the basis of the evidence led, while it was demonstrated that an extension of time was sought, however, nothing could be shown to decipher whether such extension was ever granted. The learned Tribunal categorically held that permission sought could not be construed to mean permission granted. In such regard, nothing could be demonstrated before us to show that the conclusion reached could not have been rested upon the reasoning relied upon.

In so far as the *de novo* appreciation of evidence is concerned, it would suffice to reiterate settled law that the learned tribunal is the last forum of fact in the pertinent statutory hierarchy. The appreciation of evidence was only material before the subordinate adjudication fora and no appreciation of evidence is merited before this Court in the exercise of its reference jurisdiction.<sup>1</sup>

While three questions of law are listed in the memorandum of application, it is observed that the same *prima facie* seek *de novo* appreciation of evidence, are argumentative and raise factual controversies<sup>2</sup>, therefore, we respectfully observe that the same are extraneous and dissonant to the Impugned Judgment. No question of law, arising from the Impugned Judgment, could be demonstrated before this Court, therefore, this reference application was dismissed vide a short order in Court at the conclusion of the hearing earlier today. These are the reasons for our short order.

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.

JUDGE

JUDGE

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<sup>1</sup> Per Qazi Faez Isa J in *Middle East Construction vs. Collector Customs*; judgment dated 16.02.2023 in *Civil Appeals 2016 & 2017 of 2022*.

<sup>2</sup> Per Munib Akhtar J in *Collector of Customs vs. Mazhar ul Islam* reported as 2011 PTD 2577 – Findings of fact cannot be challenged in reference jurisdiction.