

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
S.C.R.A. NO. 1863 / 2023

Date

Order with signature of Judge

FRESH CASE.

- 1) For orders on Misc. No. 5390/2023.
- 2) For orders on office objection No. 25 & 26.
- 3) For orders on Misc. No. 5144/2023.
- 4) For hearing of main case.
- 5) For orders on Misc. No. 5145/2023.

24.11.2023.

Mr. Imran Iqbal Khan, Advocate for Applicant.

- 1) Granted.
- 2) To be satisfied before the next date.
- 3) Granted subject to all exceptions.
- 4 & 5) Through this Reference Application, the Applicant has impugned Judgment dated 15.08.2023 passed by the Customs Appellate Tribunal in Custom Appeal No. K-444/2016 proposing various questions of law.

Learned Counsel for the Applicant submits that the Tribunal has failed to appreciate the facts and law and while passing the impugned order, has not attended to the basic controversy in the matter in respect of claim of the Applicant regarding indirect exports and the shortfall if any, in the export targets under the Export Oriented Rules, 2008. Learned Counsel submits that in the Show Cause Notice the allegation raised was to the effect that in the year 2013 and 2014 the shortfall percentage in the export target was 8.67% and 10.49% respectively, whereas, in view of the representations made by the exporters the concerned Collectorate had approached the Federal Board of Revenue vide Letter dated 5.12.2015 wherein, at Para 4(i) it was proposed that due to diminishing demand in the export market and shortfall in the

export targets, the concerned Collectorate may be authorized to waive the shortfall to the extent of 10% of the export target. Per learned Counsel, neither the adjudicating authority, nor the Appellate Tribunal, have considered this aspect of the matter and therefore, both these orders are not in accordance with law.

Let notice be issued to Respondents as well as DAG on the proposed Questions for **15.12.2023**. Till then, the Respondents shall not take any coercive action against the Applicant pursuant to impugned order.

J U D G E

Arshad/

J U D G E