

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Special Custom Reference Application Nos. 443, 444 & 446 of 2017

Date	Order with signature of Judge
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- 1.For hearing of CMA No.2842/2017
- 2.For regular hearing.

12.12.2023

Ms. Masooda Siraj, Advocate for the applicant.
Mr. Shehzada Mazhar, Advocate for the respondent.

Through listed Reference Applications, the department has impugned judgment(s) dated 20.04.2017 & 22.04.2017 passed by the Custom Appellate Tribunal in Customs Appeal Nos.K-1956 & 1957 and K-993 of 2016 and had proposed various questions of law, however, vide order dated 12.10.2022 all these Reference Applications were admitted for regular hearing on proposed question "F" which is reproduced as under:-

"F. Whether the learned Appellate Tribunal has not misinterpreted the Section 25 and 25-A of the Customs Act, 1969 and failed to appreciate that the Valuation Ruling No.605/2013 dated 05.12.2013 (for PVC Panaflex/banner sheet) was revised vide Valuation Ruling 782/2015 dated 17.12.2015, strictly in accordance with law by following proper method and after considering the inputs provided by the stake holders including importers, international suppliers and trade bodies during the meeting held on 01.12.2015?"

Heard learned counsel for the parties and perused the record. It appears that the Respondent had challenged Valuation Ruling No.782 of 2016 dated 17.12.2015 by way of Revision under Section 25D of the Customs Act, 1969, which was dismissed vide order dated 15.4.2016 & 27.09.2016, against which Appeals were preferred before the Tribunal which has been allowed through impugned order in SCRA No.443 of 2017 in the following terms: -

"09. Arguments heard and concluded. It has been noticed and observed that the determination of customs values of PVC Panaflex/Banners Sheets has been determined under Section 25-A of the Customs Act, 1969 and impugned Valuation Ruling No.782/2015 dated 17.12.2015 was issued. After the date of its expiry (90) days there were number of Revision Petitions filed by

importers/ stakeholders against the said ruling. The Honorable High Court of Sindh at Karachi vide order dated 10.11.2015 in C.P. No.D.6918/2015 directed that in cases where the Valuation Ruling is more than 90 days old and the importer has approach Director Valuation as per Para 21 of the judgment passed by Honorable High Court in case of Sadia Jabbar regarding such legal obligations the vires determined under the said impugned Valuation Ruling are been re-determined accordingly by the Director Valuation and fresh Valuation Ruling No.892/2016 dated 27.07.2016, as such the said impugned Valuation Ruling No.782/2015 was superseded/rescinded. It is also observed and noticed that the subsequent Valuation Ruling No.892/2016 dated 27.07.2016 was also assailed before the Director General Valuation under Section 25-D of the Customs Act, 1969 who passed the Order-in-Revision No.242/2016 dated 27.09.2016 which was accordingly assailed before this Tribunal. After ably deliberation and arguments conducted by both the parties through customs Appeal Nos.K-1956/2016 and K-1957/2016, the said Order-in-Revision and impugned Valuation Ruling No.892/2016 has been set aside by this Tribunal. In this present case crux of the matter also revolved around the same controversy, it is very much clear from the tract history of the Valuation Rulings wherein through different stages and point of time different Valuation Rulings were issued for determining the values of PVC Panaflex/Banner Sheets but matter remains unsolved”

The order of the Tribunal referred to above in Appeal Nos.1956 and 1957 of 2016 is under challenge in SCRA Nos.444 and 446 of 2017 proposing similar questions. On perusal of the record it further appears that final conclusion by the Custom Appellate Tribunal is only to the extent that the Applicant department has been directed to reassess the goods under Section 25 of the Customs Act, 1969 on the basis of data of similar and or identical goods as the Applicant department had failed to satisfy as to the validity of the Valuation Ruling. Today learned Counsel for Respondent has stated that after the order of the Tribunal, assessments have been made by the Department.

In view of the above, no question arises out of the Tribunal's Judgment, therefore, all listed Reference Applications being misconceived are hereby dismissed.

Let copy of this order be sent to Custom Appellate Tribunal in terms of Section 196(5) of the Customs Act, 1969.

Office to place copy of this order in connected SCRAs listed above.

JUDGE

JUDGE

Aadil Arab