

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Special Customs Reference Application No. 252 of 2024

Date

Order with signature of Judge

Hearing of case.

1. For orders on office objection.
2. For orders on CMA No. 1073/24.
3. For Regular Hearing.

18.09.2024.

Mr. Khalid Mehmood Rajpar, Advocate for Applicant.
Mr. Sardar Muhammad Ishaque, Advocate for Respondent.
Mr. Muhammad Siddique Brohi, Registrar Bench-III, Customs Appellate Tribunal, Karachi.

On 26.08.2024 the following order was passed:-

“Through this Reference Application, the Applicant / Department has impugned order dated 28.12.2023 passed in Customs Appeal No.K-1502 of 2023 by a Single Member of Customs Appellate Tribunal Bench-III at Karachi proposing various questions of law. However, on perusal of the record and the provisions of law i.e. Section 194-C(4)(b) it appears that the jurisdiction conferred upon a Single Member of the Tribunal is in respect of those cases wherein difference of duty or tax involved or the amount of fine or penalty involved does not exceed Rs.05 million, whereas, in the instant matter, the show-cause notice alleges a short recovery of more than Rs.07 million. We also recall that in a number of cases this issue has come-up before this Court.

Therefore let a notice be issued to the Assistant Registrar Bench-III, Customs Appellate Tribunal at Karachi to be present on the next date of hearing along with the original file of this case and the standard operating procedure for filing and scrutiny of the appeals.

To come-up on **17.09.2024 at 11.00 a.m.** Interim order passed earlier to continue till the next date of hearing.”

In response to the above order, Mr. Muhammad Siddique Brohi, Registrar Bench-III, Customs Appellate Tribunal, Karachi is in attendance and has placed before us original file of the present appeal. On perusal, it reflects that on 31.10.2023 when the matter was fixed before Single Member of the Tribunal, the Departmental Representative had raised an objection as to jurisdiction of Single Member to hear the Appeal as the amount mentioned in the show cause notice was more than 5 Million Rupees and it seems that on the pointation of the Respondents' Counsel and his contention as to calculation of the amount on

the basis of some sales tax invoices so placed before the Tribunal, the objection was overruled. However, we are not convinced with such conduct on the part of the Member since the main order does not reflect that as to how the Single Member had assumed jurisdiction when initially the Show Cause Notice alleges recovery of more than five (5) Million Rupees. If at all the objection was to be overruled, then the order so passed on the file ought to have been part of the main order to enable this Court to examine the same without calling for the original record of the Tribunal. While confronted, the Registrar submits that perhaps some mistake was made by his office as the matter ought to have been directly placed before a two-member Bench of the Tribunal.

In view of such position, the impugned order dated 28.12.2023 passed in Customs Appeal No.K-1502/2023 is hereby set-aside as it has been passed without lawful authority and jurisdiction so conferred upon the Single Member of the Tribunal. Matter shall be deemed to be pending before the Tribunal and the Registrar shall place the same before a two Member Bench of the Tribunal, which shall hear and decide the same in accordance with law.

Insofar as filing and scrutiny of Appeals in future is concerned, the Registrar is directed to be careful in future and shall exercise his powers strictly in view of Rule 3(f) of the Customs, Excise and Sales Tax Appellate Tribunal (Procedure) Rules 2006. Let copy of this order be sent to Customs Appellate Tribunal, Karachi, in terms of Section 196(5) of Customs Act, 1969.

J U D G E

J U D G E

Ayaz P.S.