

THE HIGH COURT OF SINDH, KARACHI

Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Adnan-ul-Karim Memon

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| 1. | Spl. Cus. Ref. A. 650/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Seven Star Tyre |
| 2. | Spl. Cus. Ref. A. 651/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Tyres Sales Corporation |
| 3. | Spl. Cus. Ref. A. 652/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Tyre Master, Karachi |
| 4. | Spl. Cus. Ref. A. 653/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Sultan Muhammad Tyre & Co |
| 5. | Spl. Cus. Ref. A. 654/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Autobax, Karachi |
| 6. | Spl. Cus. Ref. A. 655/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Seven Star Old & New Tubes & Tyres, |
| 7. | Spl. Cus. Ref. A. 656/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Seven Star Tyre, Karachi |
| 8. | Spl. Cus. Ref. A. 657/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Tyres Sales Corporation, Karachi |
| 9. | Spl. Cus. Ref. A. 658/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Seven Star Old & New Tubes & Tyres, |
| 10. | Spl. Cus. Ref. A. 659/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Sultan Muhammad Tyre & Co |
| 11. | Spl. Cus. Ref. A. 660/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Tyre Master, Karachi |
| 12. | Spl. Cus. Ref. A. 661/2022 | The D. G. Customs Valuation, Karachi & another VS M/s. Autobax, Karachi |
| 13. | Spl. Cus. Ref. A. 669/2022 | The Collector of Customs, Karachi VS M/s. Seven Star Tyre, Karachi |
| 14. | Spl. Cus. Ref. A. 670/2022 | The Collector of Customs, Karachi VS M/s. Tyres Sales Corporation, Karachi |
| 15. | Spl. Cus. Ref. A. 671/2022 | The Collector of Customs, Karachi VS M/s. Tyre Master, Karachi |
| 16. | Spl. Cus. Ref. A. 672/2022 | The Collector of Customs, Karachi VS M/s. Sultan Muhammad Tyre & Co, Karachi |
| 17. | Spl. Cus. Ref. A. 673/2022 | The Collector of Customs, Karachi VS M/s. Autobax, Karachi |
| 18. | Spl. Cus. Ref. A. 674/2022 | The Collector of Customs, Karachi VS M/s. Seven Star Old & New Tubes & Tyres, Karachi |
| 19. | Spl. Cus. Ref. A. 675/2022 | The Collector of Customs, Karachi VS M/s. Seven Star Tyre, Karachi |
| 20. | Spl. Cus. Ref. A. 676/2022 | The Collector of Customs, Karachi VS M/s. Tyres Sales Corporation, Karachi |
| 21. | Spl. Cus. Ref. A. 677/2022 | The Collector of Customs, Karachi VS M/s. Seven Star Old & New Tubes & Tyres, Karachi |
| 22. | Spl. Cus. Ref. A. 678/2022 | The Collector of Customs, Karachi VS M/s. Sultan Muhammad Tyre & Co, Karachi |
| 23. | Spl. Cus. Ref. A. 679/2022 | The Collector of Customs, Karachi VS M/s. Tyre Master, Karachi |
| 24. | Spl. Cus. Ref. A. 680/2022 | The Collector of Customs, Karachi VS M/s. Autobax, Karachi |

For the Applicants: Mr. Irfan Mir Halepota, Advocate.

For the Respondents: M/s. Aqil Ahmed, M. Rashid Arfi, Saleh Muhammad & Zahid Hussain for S. Mohsin Imam Wasti, Advocates.

Date of hearing: 29.02.2024
Date of Order: 29.02.2024

ORDER

Muhammad Junaid Ghaffar, J.- Through these Reference Applications, both the Applicants have impugned a common Judgment dated 26.07.2022, passed by the Customs Appellate Tribunal, at Karachi, in Customs Appeals Nos. K-109 to K-114/2022, K-116 to K-120/2022 & K/125/2022 proposing various questions of law; however, the proposed questions have not been drafted properly, therefore, they need to be rephrased which will be done by us while concluding this opinion.

2. Heard and perused the record. It appears that the department in exercise of the powers conferred upon the Director Valuation under Section 25-A of the Act issued Valuation Ruling(s) bearing No.1543, 1544 & 1545 of 2021 all dated 03.08.2021; whereby, he determined the values of the product in question (various type of Tyres) in terms of Section 25(9) of the Act under the Fall Back Method of assessment. It further appears that when Respondents imported various consignments of the product in question, assessment of their goods were made on the basis of such Ruling and being aggrieved by such determination of the values under Section 25-A (ibid), filed Revision Applications respectively in terms of Section 25-D of the Act before the Director General Valuation, who vide his Order(s)-in-Revision dated 14.12.2021 & 22.12.2021, dismissed the same and being further aggrieved; Respondents filed Appeals before the Customs Appellate Tribunal, which have been allowed through the impugned Order, and not only the Valuation Ruling(s), but the Order(s)-in-

Revision also stands set-aside. The Tribunal has further accepted the values of Respondents as true transactional values for assessment in terms of section 25(1) of the Act. The Tribunal vide the impugned order has decided the fate of 3 difference Valuation Rulings and the operative part of the order, which is relevant for the present purposes, reads as under:

5. The case record, proceedings of the forums below and written and verbal submissions of both sides including certain documents submitted by the appellant have been examined and perused by us. On such perusal, we have found that the appellant submitted certain documents i.e. invoices, Bank's letters of credit and C&F Price List of subject goods of foreign exporters before the Respondent No. 1 as well as the same has been enclosed with the appeal which has not been controverted by the Respondents. It has also been noted that sub- Section (1) of Section 25 of the Act, 1969, by referring to the "scheme" and "sequential order as envisaged Under Section 25 of the Act, 1969, bound Section 25A of the Act, 1969 tightly to the Valuation Agreement. The concerned officer while exercising powers provided under Section 25A of the Act, 1969 must apply his mind to the all methods, and first determine the ones which are applicable in relation to the goods or category of the goods for which the customs values are being determined. If two or more methods are found applicable, he may then choose the one most appropriate in the facts and circumstances the case, But, while doing so he must specify valid reasons regarding discard and inapplicability of other applicable method(s) that sequentially precede the method being adopted. Under the law the method actually adopted must of course be applied in the manner set forth in section read with the relevant rules under Chapter-IX of the Customs Rules, 2001, subject to such adaption as may be necessary. In this case, it has been observed that actual transactional values of subject goods are very much available on record as well as the uncontroverted C&F Price List of the subject goods of the Manufacturer and Exporter of these goods is also available on record. We observed that neither valid reasons have been disclosed in the Impugned orders regarding inapplicability of primary valuation method provided under sub- Section (1) of Section 25 of the Customs Act, 1969 nor application of mind of the respondents has been found while choosing final method (fall back) provided under sub- section (9) of Section 25 of the Act, 1969, reference is placed to the judgment of Honorable High Court of Sindh, Karachi M/s Goodwill Traders is Federation cited in 2014 PTD 176.

6. The Honorable High Court of Sindh, Karachi has already held that the determination of customs values under Section 25A of the Customs Act, 1969 is a multi stage exercise, at each stage of which there has to be a proper application of mind the concerned officer. hence, it is appropriate that the Valuation Ruling should contain sufficient detail to show that the discretion provided Under Section 25A subject to Section 25 of the Act, 1969 has been properly exercised which relates to a "determination" and not a mere "fixation" of customs values of goods to be imported or exported. It may be noted that the Valuation Ruling is subject to revision Under section 25-D of the Act. 1969 and the latter's decision is now appealable to the appellate tribunal, therefore, it is necessary that the Valuation Ruling should be a speaking order to be passed by fulfilling the requirements envisaged under section 24A of the General Clauses Act. 1897. When we examined the impugned Valuation Ruling and its contents, it has been seen that instead of carrying out proper exercise of determination of customs values of subject goods with application of mind by the respondent No.2 a stereotype order in the form of Valuation Ruling was passed by adopting final method of valuation provided under sub-Section (9) of Section 25 of the Act. 1969 by stating that information gathered from clearance data, market information, proposal from

importers and international prices through internet were utilized and analyzed for determination of customs values of subject goods, but, neither customs clearance data of ninety days of identical goods nor national and international market inquiries report nor any other material or evidence has been either enclosed with the para-wise comments or disclosed by the Department which could establish that required multistep exercise of determination of customs values of subject goods was properly made from which the impugned customs values were derived for determination under Section 25(9) of the Act, 1969.

7. The Honorable High Court of Sindh in its judgment in case of M/s. Goodwill Traders Federation of Pakistan cited in 2014 PTD 176 has already made interpretation of sub- Section (9) of Section 25 of the Act, 1969 and held that it comprises three elements, firstly, it is to apply only if it is determined that valuation methods contained in sub-Sections (1), (5), (6), (7) and (8) of Section 25 cannot be applied secondly, its application is subjects to "Rules", which at present means the Customs Rules, 2001 and thirdly, the basic framework of how value is to be determined in terms of sub-sections has also been specified. The Honorable High Court also held that customs values in terms of Section 25(9) of the Act 1969 must be determined on a basis that is "derived" from among the valuation methods specified in sub-Sections (1), (5), (6), (7) and (8) of the Act, 1969, however, it is permissible to apply these sub-sections in a "flexible manner", these sub-sections cannot simply be pushed aside and ignored altogether. Rather, what sub-section (9) envisages is a value derived on the basis of any one of the other valuation methods, flexibly applied, or a suitable blending of elements from two or more of the other valuation methods, again applied flexibly. The basic framework ties Section (9) of Section 25 of the Act, 1969 much more closely and strictly to the other valuation methods than does article of the Valuation Agreement. The perusal of para-wise comments of the Department as well as impugned Order-in-Revision does not disclose which valuation methods specified in sub-sections (1), (5), (6), (7) and (8) of Section 25 of the Act, 1969 and rules of the Customs Rules, 2001 were found appropriate and applied in such manner as observed by the Honorable High Court to derive the impugned customs values of subject goods as determined by the Director Valuation and upheld by the Director General of Valuation in the impugned orders.

8. It is noted that methods of customs valuation are required to be applied in sequential order, as this has been examined in various judgments by the Superior Judicial Fora, wherein, it has been held that the provisions of Section 25 of the Act, 1969 have to be followed in sequential manner without exception, reference is placed to reported/unreported judgments listed below:-

- i. 2006 PTD 909 Rehan Omer vix Collector of Customs, Karachi.
- ii. 2008 PTD 1494 M/s Toyo International Motorcycle v/s Federation of Pakistan and 3 others.
- iii. 2008 PTD 1250 Najam Impex v/s Assistant Collector of Customs, Karachi and others
- iv. PTCL 2014 CL 537 Sadia Traders v/s FOP.
- v. 2013 PTD 825 Facu Trading Co v/s Members Custom, Federal Board of Revenue and Others.
- vi. 2014 PTD 176 Goodwill Traders, Karachi v/s FOP

9. In the cited judgments the question under consideration was as to how the Section 25 of the Act, 1969 is to be applied by the customs authorities while making determination of customs values of the imported and exported goods for issuance of Valuation Ruling under Section 25A (1) of the Customs Act, 1969. The established principle of interpretation of the tax law is that the plain language of the law is to be applied. A bare perusal of Section 25 shows that it is specifically provided in subsection (1) of Section 25 that the customs value of the imported goods, subject to the provisions of this Section and Rules shall be the transaction value of goods.

10. It is settled law that when a statute requires that a thing should be done in a particular manner or form, it has to be done in such manner and not otherwise, reference could be made on a judgment of Honorable Supreme Court of Pakistan cited in PTCL.2017 CL. 736. In this case, the appellant has not been confronted with any material or evidence relied upon by the Respondents while exercising powers under Section 25A and 25-D of the Act, 1969 for determination of customs values of subject goods Under Section 25(9) of the Act, 1969. It has also been noted that the determination of customs values of subject goods has not been done in accordance with the particular manner as required and prescribed under the Customs Act, 1969 and Rules made thereunder.

11. We are also cognizant of the fact that international prices of all commodities including the raw materials used for manufacturing of various products registered a decline during the period under discussion and therefore the contention of the appellants that their declared values were in accord with the actual obtaining values in the world market is not without any basis. In such a scenario, the Directorate General was expected to come up with credible data to justify the higher determination of value of impugned goods which we are afraid has not been seen in the instant case. The respondent Directorate General has not been able to provide any credible evidence regarding appreciable increase in prices of input raw materials such as Natural Rubber, Synthetic Rubber, Steel Cord or Carbon Black etc during which could have justified determination of higher value of imported tyres and tubes under Section 25A of Customs Act, 1969.

12. In view of the foregoing, we hold that the impugned Valuation Ruling Nos. 1543/2021, 1544/2021 and 1545/2021 all dated 03.08.2021 have been issued in disregard of express provisions of Customs Act, 1969 and therefore are declared to have been issued without lawful authority and have no legal effect. The impugned Order-in-Revision Nos. 60/2021 dated 14.12.2021, 65/2021 and 66/2021 last both dated 22.12.2021 passed in the hierarchy of the Customs are also infested with patent illegality which are held to be illegal and without lawful authority and set aside to the extent of appellants' case. The appellants' consignments are therefore to be valued on the declared values for assessment of duty and dicta laid down by the Honorable High Court of Sindh, Karachi in its judgment cited in 2014 PTD 176. The appeal is allowed with no order to cost.

3. From perusal of the aforesaid finding of the Tribunal, it appears that the Tribunal in essence came to the conclusion that since sequential methods of valuation as provided under Section 25 of the Act have not been followed while determining the values of the goods in question, therefore, in view of the judgment passed in the case of **Goodwill Traders**¹ the said determination of values under Fall Back Method directly in terms of Section 25(9) of the Act is unlawful; hence the Valuation Ruling(s) and the Order(s) in Revision were liable to be set-aside. At the same time, while doing so, the values of the Respondents as per their import documents have been accepted as Transactional value(s) under Section 25(1) of the Act. However, on perusal of the record and the Valuation

¹ (2014 PTD 176)

Ruling(s) in question, it appears that the Tribunal to this extent and its reasoning for setting aside the Ruling(s) has misdirected itself and has failed to peruse the record with careful application of mind. It would be advantageous to refer to Para-5 of one of the impugned Valuation Rulings No. 1544 of 2021 dated 03.08.2021 which reads as under:-

“5. **Methods Adopted to Determine Customs Values:** Valuation methods provided in Section 25 of the Customs Act, 1969, were duly applied in their regular sequential order to arrive at customs value of subject goods. The Transaction value method as provided in sub-section (1) of Section 25 of the Customs Act, 1969, was found inapplicable because no substantial documents were provided by the stakeholders to prove that their declared values were true transactional values. Moreover, different values were declared by different importers for same product according to different origins. Identical/similar goods value methods provided in Sections 25 (5) & (6) *ibid* were examined for applicability to determine customs values of subject goods. The data provided some references; however, it was found that the same could not be solely relied upon due to absence of absolute demonstrable evidence of qualities and quantities of commercial level etc, Information available hence found inappropriate. In line with statutory sequential order of section 25, this office conducted market Inquiries using deductive value methods under sub-section (7) of Section of the Customs Act, 1969, wide ranges of prices were observed for some items depends upon variety/quality/count etc. and location of market. Hence this method of valuation could not be relied upon due to aforesaid reasons. Therefore, valuation method vide Section 15(8) of the Customs Act, 1969, was examined for valuation but the same also could not be applied due to non-availability of conversion and processing cost of exporting country Finally, clearance data, market information, proposal from importers and international prices through internet were examined thoroughly and the information so gathered were utilized and analyzed for determination of Custom Values of Tyres & Tubes of Light Truck & Truck/ Bus under Section 25(9) of the Customs Act, 1969.”

4. From perusal of the above it reflects that the Director Valuation while determining the values under Section 25A of the Customs Act, 1969 has made substantial compliance of the law settled in *Goodwill Traders* (Supra), notwithstanding the fact that subsequently, section 25 and 25A have been amended a number of times and the ratio of that judgment is not squarely applicable in the present facts and circumstances of the case. In the case of ***Collector of Customs v A.R. Industries (2023 PTD 1769)***, this Court has dealt with identical facts and law while deciding a somewhat similar matter as the order of the Tribunal in that case was also on the same line. This Court held as follows.

6. From perusal of the aforesaid determination of values by the Director Valuation, it appears that the methods of Valuation, as provided in Section 25 of the Act have been sequentially followed inasmuch as the transactional value method under section 25(1) of the Act was found inapplicable as no substantial documents were provided by the stakeholders to justify their transactional values, whereas, different values were declared by different importers for the same product. Similarly the second and third methods of valuation in sequence i.e. identical goods method and similar goods method as provided under Section 25(5) & (6) of the Act were also found to be inapplicable due to absence of absolute demonstrable evidence of qualities and quantities of the commercial level of such goods; hence the information as available was found inappropriate. It has been further observed that thereafter the fourth method i.e. Deductive Value Method under Section 25(7) of the Act was also applied; but it was found that determination of values could not be based solely upon this method either. Thereafter the fifth method of valuation as provided under Section 25(8) of the Act i.e. Computed Value Method was also found inapplicable as the conversion cost of the constituent materials as well as allied expenses in the country of exports were not available. Finally, the values were determined under the Fall Back Method as provided under Section 25(9) of the Act, and thereafter the values were notified under Section 25-A *ibid*; therefore, as to the exercise carried out by the Director Valuation and the arguments that sequential methods were not followed as provided in Section 25 of the Act and upheld in various judgments of the Courts does not appear to be correct or justified. The Tribunal to this extent appears to have misread the available record and has misdirected itself in observing that sequential methods of Valuation as provided in Section 25 of the Act were not followed. In the case of **Sadia Jabbar**² on which the Tribunal itself has relied upon, while dealing with a Valuation Ruling issued in terms of Fall Back Method [s.25(9)] it has been observed by this Court that;

26. The next ruling is No.Misc/01/2009-VIIB dated 23.10.2009, issued in relation to ball bearings imported from Japan and China. This ruling, in our view, appears to come closest to correctly applying and following the provisions of section 25A as noted above. There appears to have been an application of mind by the Director Valuation to the various methods in the proper sequential order, although the reference to the transaction value is not relevant for reasons stated *supra*. Reasons of one sort or another are given in respect to each method as to why that method is inapplicable, and ultimately the fall-back method (subsection (9)) is purportedly applied....”

In view of the above, to this extent the Tribunals order cannot be sustained that Values have been determined through impugned Valuation Ruling directly under Section 25(9) of the Act, without following the sequential methods as provided in Section 25(1) to (8) of the Act. This finding, therefore, stands overruled.

5. It may also be of relevance to refer to the findings of DG Valuation while deciding the Revision Applications before him as apparently the Tribunal has also failed to look into such finding of fact so recorded against the present Respondents and has overturned the same without any lawful justification. In

² 2018 PTD 1746

Order in Revision dated 14.12.2021 in respect of Ruling No.1543 of 2021, it reads as under;

“3. Hearings in this case were conducted on 30-09-2021 and 29-11-2021 on which dates both the petitioners and the department were heard in detail. The main contentions of the petitioners were that the import values of Tyres & Tubes of Passenger Cars, earlier determined vide Valuation Ruling No.1318/2018 dated 30-08-2018 had again been raised un-lawfully and un-justifiably which are not reflective of prevalent international prices. Moreover, they reiterated that their declared values were correct transactional values. Representative of Ms A.M Trading Corporation stated that their brand of tyres which is Vietnamese in origin is quantitatively similar to Chinese origin tyres but under the impugned valuation ruling, their Imports are categorized as "Other Origin" which renders their goods to assessment at values that are 20% higher than comparative Chinese origin goods. He further stated that despite furnishing the requisite documentation in support of his import prices during the last three months, the department arbitrarily discarded such evidence, and proceeded to determine Customs values without considering their objection.

4. On the other hand, the departmental representative (D.R.) explained in detail the working methodologies adopted to arrive at Custom values determined vide impugned ruling. Moreover, DR also presented details of market inquiry in support of values by them stating that the prices were earlier determined 03 years ago, he went on to explain that since the last determination, the prices of tyres and tubes had risen in the international market. To corroborate his position, the D.R. presented comprehensive Import clearance data of the ingredients/raw materials, used in manufacturing of tyres and tubes, which strengthens the stance of respondent department that the International prices of all such constituent raw materials like Steel Cord, Natural/Synthetic Rubbers, Carbon Black etc, had increased. As regards the issue of tyres (including those of Vietnamese origin), it was contended that the market survey had revealed that prices are indeed higher according to origin and not brand. The D.R. submitted that during Validity of previous Valuation Ruling No.1318/2018 dated 30-08-2018, the importers, including the petitioner/importers, Importing Vietnamese-origin tyres/tubes smoothly got cleared their consignments and never agitated on the issue of "Other Origin" vis-à-vis valuation of their goods. He further stated that presently, importers other than petitioners, were regularly getting their consignments imported from Vietnam, cleared on the Customs values determined vide impugned ruling.

5. After listening to the detailed discussion arguments of petitioners and respondents and perusal of the case record, it is apparent that the department has adopted prescribed methodology under Section 25 of the Customs Act, 1969 in determination of Custom values and had consulted the stakeholders while issuing the impugned valuation ruling. They were given sufficient time and opportunity to provide inputs including documentary proof evidence to substantiate, their claim that their declared Import values were indeed the true transactional values. The contention of the D.R that since issuance of VR No.1318/2018 dated 30.08.2018, the prices of the major input raw materials i.e. Natural Rubber, Synthetic Rubber, Carbon black, Steel Cord etc. have increased with similar impact on international prices of tyres/tubes is both logical/rational. Moreover, the freight costs in the international market have witnessed a distinct increase which manifests in a concomitant increase in the prices of finished goods i.e. tyres and tubes. On account of foregoing discussions, I therefore, see no reason to interfere with the values determined under Section 15A of the Customs Act, 1969, vide Valuation Ruling No.1543/200 dated 03.08.2011 and accordingly the review petitions are rejected and valuation ruling is upheld.

6. From perusal of the above findings and the stance of the present Respondents it appears that it was never their case that the methods of valuation have not been followed sequentially while determining the values under Section 25A of the Act. Rather their case was that until issuance of the impugned Valuation Rulings, the values determined on the basis of an earlier Ruling (1318 of 2018) were correct, whereas, the prices of raw material had gone down and not increased as determined by the Director Valuation. In fact, this was the only issue before the Tribunal, whereas, the Respondents had failed to produce any such material to substantiate this argument regarding reduction in prices of basic raw material. On the other hand, in the impugned order the Tribunal has not referred to any such material; or even the material which according to the Tribunal was placed before it. Merely stating that certain documents have been produced does not suffice. Such documents in each individual case are to be looked into so as to fulfil the requirements of Section 25(1) to (4) of the Act, before any transactional value can be accepted. Insofar as the impugned order of the Tribunal is concerned, while setting aside the Valuation Ruling(s) and the Order(s) in Revision, the declared values of the Respondents have been accepted as Transactional Values in terms of Section 25(1) of the Act. The impugned order of the Tribunal is silent except the use of words (*"in this case, it has been observed that actual transactional values of subject goods are very much available on record as well as the uncontroverted C&F Price List of the subject goods of the Manufacturer and Exporter of these goods is also available on record"*.. See Par 5 of the order). We are completely at a loss to understand, as to how and in what manner, these values of various Respondents were accepted as Transactional Values under Section 25(1) of the Act when there is no discussion about such Transactional Values and supporting documents which each individual Respondent may have placed before the forums below including the Tribunal.

Moreover, any price list is not a ground to accept the transactional value of an individual importer. It may be an assist to justify the transaction entered into by the importer who is placing reliance on it; but this in and of itself is not an indicator to finally accept a *declared value* as a *transactional value* within the ambit of Section 25(1) of the Act. There is no such exercise on record in respect of each transaction of the Respondents for accepting their declared values as transactional values. The Tribunal has seriously erred in law and facts in arriving at such conclusion and this finding of the Tribunal cannot be sustained in the facts and circumstances of the case in hand.

7. In view of hereinabove facts and circumstances of this case, the Questions of law are rephrased as under;

- (i) *“whether in the facts and circumstances of the case the Tribunal was justified in holding that the values of the goods in question were determined directly under section 25(9) of the Customs Act, 1969 (Fall Back Method) through impugned Valuation Rulings without following the law and the sequential methods as provided under Section 25 ibid?”*
- (ii) *“whether in the facts and circumstances of the case the Tribunal was justified in holding that the values declared by the Respondents were the actual transactional values in terms of Section 25(1) of the Customs Act, 1969? Whether*

8. Question No.1 is answered in **negative**; in favour of the Applicant Department and against the Respondents, whereas, Question No.2 is also answered in **negative**; against the Applicant and in favour of the Respondents. All these Reference Applications are **allowed** in the above terms by setting aside the impugned orders of the Tribunal. Let copy of this order be sent to Customs Appellate Tribunal, Karachi, in terms of sub-section (5) of Section 196 of Customs Act, 1969. Office to place copy of this order in the connected Reference Applications as above.

Judge

Judge

