

**IN THE HIGH COURT OF SINDH, KARACHI**  
**Special Criminal Acquittal Appeal Nos. 32 & 33 of 2021**

Date

Order with signature of Judge

**Appellant in both Appeals:**

**The Collector of Customs, MCC-Appraisement (West)  
Through Mr. Muhammad Khalil Dogar, Advocate.**

**Respondent (s):**

**Zafar Iqbal (Spl. Cr. Acquittal Appeal No. 32/2021)  
Mehmood Iqbal (Spl. Cr. Acquittal Appeal No. 33/2021)**

**Date of hearing:**

**16.01.2023**

**Date of Order:**

**16.01.2023**

**ORDER**

**Muhammad Junaid Ghaffar, J:** Through both these Appeals filed under Section 185-F of the Customs Act, 1969, the Appellant has impugned two separate (but identical) Orders dated 28.04.2021 passed by the Special Judge (Customs, Taxation & Anti-Smuggling) Karachi, in Crime No.11 of 2019 and 13 of 2019, whereby, Respondents have been acquitted from the charge under Section 265-K Cr.P.C.

Heard learned Counsel for the Appellant and perused the record. It appears that the prosecution registered instant FIR's on the basis of Import General Manifest and Bill of Lading by alleging that mis-declaration has been committed by the Respondents. At the same time, the Prosecution also issued Show Cause Notices to the Respondents and the matters finally came up before this Court in various Special Customs Reference Applications, including SCRA No. 468 of 2011 (The Collector of Customs V Great Eastern Company) which were decided vide Order dated 13.04.2021. The learned Trial Court has passed the impugned Order by placing reliance on the observations so recorded in the said Order by a Division Bench of this Court. It was held by this Court that a Bill of Lading is though a customs documents within the contemplation of Section 2(kka)

of the Customs Act, 1969; however, it only materializes and becomes relevant when it is filed along with Goods Declaration under Section 79 of the Customs Act, 1969. Admittedly, in these matters no Goods Declarations was ever filed, and no one turned up to claim the goods in question; hence, there was not declaration filed at all by the Respondents. It appears that the case of Prosecution is presumptuous and apprehensive, and therefore, the learned Trial Court has acquitted the Respondents from the Charge under Section 265-K Cr.P.C. On perusal of the Order, it appears that the same is correct; has appreciated the law as well as Judgement as above, and therefore, no case for indulgence is made out; hence both these Acquittal Appeals are dismissed in *limine*.

**J U D G E**

Ayaz