

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

High Court Appeal 03 of 2019

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
|------|----------------------------------|
|------|----------------------------------|

- 1. For orders on office objection a/w reply at ‘A’.
- 2. For hearing of main case.
- 3. For hearing of CMA No.238/2019.

13.02.2026

Mr. Muhammad Khalil Dogar, advocate for the appellants.
Mrs. Masooda Siraj, advocate for the appellanst.
Mr. Ali Nawaz Khuhawar, advocate for the respondents.

Mr. M. Nayyer Shafiq, Collector of Customs, East.
Mr. Saeed Ahmed Watto, Collector of Customs, PMBQ.
Ms. Mona Mehfooz, Collector of Customs, West.
("Officers")

This High Court Appeal has been pending for over seven years without any progress. The diary demonstrates that the appeal was presented on 22.12.2018 and on each date, for almost the next four years, time was sought on behalf of the appellants to prepare the case. Notice was finally issued on 10.05.2024, however, time was sought again thereafter on behalf of the appellants to prepare.

The appeal remained a clog in the docket and on 16.01.2026 the appellants’ learned counsel were called upon to eschew adjournments and argue the case. The entire argument articulated before the Court was that the matter had been escalated up to the Supreme Court and the same culminated in the *Searle Solutions* judgment reported as 2019 PTD 347; with which the appellants remained aggrieved.

The *Searle Solutions* judgment pertained to forum of adjudication, then being the original civil jurisdiction of this High Court, and not upon any individual grievance. Notwithstanding the finality of a pronouncement of the Supreme Court, it was also not understood how the issue remained moot post abolition of the original civil jurisdiction of this Court.

Since the learned counsel remained unable to assist with the adjudication of the appeal, the following order was rendered on 16.01.2026:

“This High Court Appeal is pending since 2019 against the impugned order rendered by the learned Judge dated 30.11.2018. Per learned counsel for respondent a precursor similar controversy was decided earlier by this court in judgment reported as 2019 PTD 347. He states that the same was assailed through the appellate hierarchy all the way upto the honourable Supreme Court, however, the findings and conclusion were not displaced. He states that the present judgment has not taken any different view and adverts to the following conclusion therein.

- 6. In view of hereinabove facts and circumstances of the case following issue is settled in terms of Order 14 Rule 2 as a legal issue.
 - 1) Whether the Plaintiff being spinner is entitled to claim benefit of SRO 1125(1)/2011 dated 31.12.2011, as amended by two subsequent SRO's (i)

154(I)/2013 dated 28.2.2013 and (u) 491(1)/2016 dated 30.06.2016 while importing raw material for its spinning stage?

7. And the same is answered in the affirmative by holding that plaintiffs is entitled for exemption and benefit of SRO 1125(1)/2011 dated 31.12.2011, as amended by two subsequent SRO's (i) 154(1)/2013 dated 28.2.2013 and (ii) 491(I)/2016 dated 30.06.2016 while importing raw material for its spinning stage and as a consequence thereof, if any consignment(s) have been released by the department against securities, they stand discharged and shall be released forthwith. The Suit stands decreed as above, Let a decree be prepared accordingly.

Despite repeated requests respective learned counsel for the applicant not been able to articulate their grievance insofar as the impugned judgment is concerned. Since this matter is pending for the last seven year and clogging the docket, we deem it appropriate to seek assistance of the applicants himself. Let, applicants, (1) Collector of Customs, MCC Appraisement (West), (2) Collector of Customs, MCC Port Muhammad Bin Qasim and (3) Collector of Customs MCC Appraisement (East) Law, be present in Court to assist on the next date. To come up on 30.01.2026.”

The respected Officers appeared on the next date, however, merely to seek time yet again and the matter was adjourned till today.

The sole plea taken by the Officers today was that a judgment that had been relied upon in the impugned judgment had been escalated before the Supreme Court and had been determined vide *Searle Solutions*. A review application was preferred, to such extent and in such case, before the Supreme Court in 2018, hence, this appeal be adjourned *sine die*¹.

Respectfully, we find ourselves unable to concur. *Searle Solutions* was rendered by the Supreme Court in the context of the original civil jurisdiction of this Court; which has in any event been since abolished. Filing of a review petition does not in itself confer any rights upon an applicant and the fact that the applicant has not proceeded therewith in the last seven years does not provide grounds to perpetuate incidental and / or ancillary litigation. In summary, no case is made out before us to perpetuate this appeal on the ground that a review application in some other case, conclusively decided, remains pending.

The learned counsel made no effort to address the appeal on merit on the previous two dates and same was the case today. The Officers present, on the previous date and today, also made no endeavor in such regard. Since no case was ever put forth to assail the impugned order, hence, no occasion arises to warrant any interference therewith. Therefore, this appeal is hereby dismissed.

Respectfully, the matter ought not to end here. The Supreme Court has taken judicial notice of the fact that the fiscal docket in the superior courts has been clogged with unmerited litigation, including that precipitated / perpetuated at the behest of Revenue. On 30.01.2026, the Officers were asked to consider the recent Supreme Court judgment dated 15.01.2026 in CPLA No. 1990 of 2025, especially paragraphs 8, 9 and 10 thereof; that read as follows:

“8. When government departments routinely file appeals/petitions (often up to the High Courts and the Supreme Court) on questions of law that have already been authoritatively settled, the practice results in serious institutional harms. The most

¹ As sought vide statement dated 13.02.2026; filed in Court and hereby taken on record.

immediate consequence is the clogging of court dockets. Courts are compelled to spend scarce judicial time revisiting issues that are no longer *res integra* at the cost of undecided legal and constitutional questions, criminal appeals involving personal liberty, and civil disputes pending for years. This undermines the constitutional mandate of speedy justice. Repeated appeals/petitions on settled law weaken respect for Article 189 of the Constitution, the doctrine of *stare decisis*, and judicial discipline within the executive branch. When the State itself disregards binding precedents, it sends the wrong signals to subordinate courts, tribunals, and litigants. Such appeals/petitions result in unavoidable litigation costs, consumption of public funds for counsel, court fees and administrative processing.

9. The State is expected to act as a responsible and fair litigant, not as a compulsive appellant/petitioner. The practice and tendency within government departments to file appeals/petitions mechanically, particularly when the outcome is foreseeable in light of settled law, has already been deprecated by this Court in the judgments reported as Federal Public Service Commission through Secretary, Islamabad Vs. Kashif Mustafa (PLJ 2025 SC 386), Director General, Rawalpindi Development Authority Vs. Mian Muhammad Sadiq (PLD 2006 SC 142), Regional Manager, NADRA RHO, Hayatabad, Peshawar Vs. Mst. Hajira (2024 SCMR 197), State Life Insurance Corporation of Pakistan Vs. Mst. Zubeda Bibi (2024 SCMR 426) and Amjad Ali Vs. Board of Intermediate and Secondary Education (2001 PLC (CS) 280).

10. Courts already possess both constitutional authority and jurisprudential tools to address the problem of repeated appeals/petitions by government departments on settled questions of law. Not just can the courts dismiss such appeals/petitions in limine, one of the most effective tools is the imposition of costs. In egregious cases, courts may require identification of the officer for authorizing the appeals/petitions. It is imperative for there to be internal accountability by government departments and careful legal scrutiny before filing appeals/petitions. Had such scrutiny taken place before the filing of the instant petition, it would have been realized that the primary question of law sought to be agitated by the petitioners already stands authoritatively settled by a number of judgments of this Court referred to herein above. In the case of order to address this problem it is imperative for the Chairman, F.B.R. to consider constituting committees which function with the highest degree of independence and includes a retired Judge of the superior judiciary, an experienced tax practitioner, and senior serving or retired officers of the F.B.R. with distinguished record and impeccable credentials with the mandate to timely examine each case before a decision is made to file a reference before the High Court or a petition before this Court. The F.B.R. may also consider undertaking review of all pending cases in order to determine whether the questions of law sought to be agitated therein already stand settled by judgments of superior courts.”

It is apparent that precipitation and / or perpetuation of unmerited litigation has been unequivocally disapproved by the superior courts and the aforementioned judgment meticulously reiterates the same. *Prima facie* the present case appears to fall within the ambit of such proscription.

Perpetuating such matters clogs the docket of the Courts and the consequence thereof is eventually borne by Revenue. The learned officers' assistance was sought, however, the outcome was as particularized supra. While exercising maximum restraint, we leave mitigation of such matters to the better judgment of the executive.

The Office is instructed to directly convey a copy hereof to the learned Attorney General Pakistan, Secretary Revenue Board and Chairman Federal Board of Revenue at Islamabad.

Judge

Judge