

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 927 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection No.27
2. For orders on CMA No.4030/2024
3. For hearing of main case
4. For orders on CMA No.4031/2024

12.03.2026

Mr. Mohabat Hussain Awan, advocate for the applicant

This reference application is pending since 2024 without any progress. Applicant has not made any attempt to have the matter listed or proceed. Today learned counsel presses questions A, C & E, reads as follows :

- i. Whether the Customs Appellate Tribunal has not erred in the law by ignoring the pivotal aspect that the importer mis-declared the description by declaring imported goods as "tulle net fabric" assessable USD 4.2/Kg whereas, conversely, goods found are "polyester net fabric and Organza Fabric" both are assessable at a higher value of USD 5.95/Kg as per Valuation Ruling No. 1788/2023; hence, it was carefully calibrated and conscious attempt by the importer to clear the higher-value goods on significantly lower value?
- ii. Whether the Customs Appellate Tribunal has not erred in law by advancing two contradictory observations simultaneously, at one place, it is upholding the Collectorate's findings that goods are actually "polyester net fabric" as against declared description of "tulle net fabric", while at another place, it is remitting the fine and penalty "in toto" which render the Tribunal's impugned order infructuous and patently infested with grave legal lacuna.
- iii. Whether the Customs Appellate Tribunal has not erred in law by opining that "Mens Rea (Guilty intention)" is absent in the instant case, implying as if it was an innocuous mistake on the part of the importer, whereas, contrary to the Tribunal's afore-mentioned notion, it was a cautiously calibrated scheme whereof the goods were purposefully imported proving thereto both ingredient of offence "Actus Reus (guilty Act) and Mens Rea (Guilty intention)" on the part of the importer?

Prima facie the questions seek to agitate are questions of fact, not amenable for adjudication in reference jurisdiction. Learned counsel seeks *denovo* appreciation of evidence and it has not been demonstrated that the same can befall within the ambit of reference jurisdiction. Since no question of law has been articulated before us, there is no reason to perpetuate the matter in the docket. In view hereof, this reference application is dismissed in *limine*.

A copy of this order may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Judge

Judge