

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 214 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.2641/2025.
- 2. For hearing of main case.
- 3. For orders on CMA No.2642/2025.

13.01.2026

Mr. Irfan Mir Halepota, advocate for the applicant.
Ms. Saadia Sheraz, Collector of Customs, Airports Karachi.

On 08.12.2025, when this matter was taken up, it appeared that questions of law proposed were either argumentative in nature or sought to re-agitate the factual controversy notwithstanding that the last fact finding forum in the statutory hierarchy was the learned Appellate Tribunal. Upon being so confronted, learned counsel sought time to obtain instructions, when a fixed date was given. On the next date again he sought time. At that juncture, it was considered appropriate to seek the presence of applicant, in order to assist the court. On the said date, applicant remained absent, however, as an indulgence, the matter was adjourned till today.

Today, Ms. Saadia Sheraz, Collector of Customs, Airports Karachi, is present and her entire case is that section 2(s) of the Customs Act, 1969, has been violated and that there was no declaration by the respondent.

Respectfully, we are unable to discern as to how the same constitutes articulation of any question of law that may be entertained by us in reference jurisdiction. It is considered illustrative to reproduce the operation constituents of the impugned judgment, which reads as follows:

- “08. We have heard both sides and perused the case record and the passports and other documents exhibited by the Appellant. The case of the appellant rests on the following points:-
- i. The Appellant Mr. Muhammad Rasool, his wife namely Farzana, his mother in law Umar, Bakha, his two sons, all travelled to UAE, because his Mother in law & Father in law “Dad Raziq” have permanent residency running “Auto Work shop”. The family also aspired to get permanent residency. Therefore his wife Farzana travelled with Jewellery (Gold Bangles 22 K 6 Pcs, 86 grams, one Gold Necklace 22 K, 59.8 grams, Earrings 2 PCs 48 grams (Total 203.79 grams) which comes to 17.40 Tollas as her Dowry. Where as evidenced from income Tax Return filed by the appellant for the year 22022-2023.

- ii. The Impugned goods were seized when appellant arrived from Sharjah to Pakistan. The said jewellery is backed by Tax Invoice dated 26.04.2025 issued by Thamrah Jewellers LLC Sharjah UAE and as per Tax Invoice POSMN2502917 dated 30.04.2025 issued by Wadi Al Tahab Jewellers Sharjah. It was bonafide Jewellery purchased exclusively for his wife as evident from Photograph and declared in Income Tax Return.
- iii. The Jewellery belongs to his wife Farzana. The said Jewellery was provided by her parents as "Dowry" in accordance with tradition. The Jewellery is bonafide for his wife use but not for smuggling as alleged. She travelled along with gold jewellery to UAE as worn article. It was being brought back by the appellant.

09. There are three articles of gold seized in his case i.e. bangles, necklace and earrings having a total weight of 193.8 grams. These have been seized from the baggage of the Appellant's passenger. The appellant has pleaded that no any offense of smuggling or mis-declaration has been committed by him. He was a bonafide passenger arriving in Pakistan from UAE in May 2025 after stay of about four months. As a matter of fact it was the first time he had gone to UAE on 05th February 2025 alongwith his family and was returning alone on 5th May to Karachi, Pakistan. He has furnished evidences of lawful purchase of the subject jewellery from UAE and has shown the evidence of corresponding declaration in his annual Income Tax Returns submitted to FBR. He has further pleaded that he tried his best to follow the law. He was not conversant with the Customs Laws. He also stressed upon the fact that he did not bring the impugned gold in concealment nor he attempted intentionally to mislead customs. He pleaded with the customs authorities that the goods may be detained and returned to him at the time on departure, however the customs authorities proceeded to seize the goods.

10. It is established that the respondent / passenger is not a frequent flyer. It was rather the first time he was returning from abroad / UAE on 5th May 2025 when his goods were seized. He had travelled to UAE alongwith his family in February 2025. He has provided all the requisite documents and receipts to prove bonafide purchase of the impugned goods. These items are also duly declared in his Wealth Tax Statements to FBR for the year 2022-23. He also provided evidences of selling old jewellery in UAE and then buying fresh jewellery. Receipts of selling gold and transaction is also on record. There is no evidence that goods were concealed in a manner to ensure that these are not found easily on search. The goods were carried in the luggage of the passenger along with other items. No secret cavities or concealments of the goods is on record. The adjudicating authority has not recorded any examination of the facts. No reference has been made to the reply to show cause notice wherein detailed position was furnished by the appellant who pleaded his own case before the adjudicating authority. The impugned order passed by the adjudicating authority fails to provide proper scrutiny of the facts and passed without analysis disregarding the bonafides presented by the appellant.

11. The foregoing discussion in view, we are convinced that there was no deliberate or planned attempt to violate laws and defraud the national exchequer. The respondent has presented firm evidences of lawful purchase receipts. The declaration in the Wealth Statement for the year 2022-23 adequately supports his lawful possession of the purchased items. Therefore, we do not consider the case originating from any mensrea. Accordingly we do not find the confiscation of the goods inconsistent with the facts involved. Further the Appellant is also willing to take back the jewellery on his departure to UAE. Accordingly the Appeal is allowed in these terms and the Order in Original is set aside.

12. The appeal is disposed of in above terms.”

The judgment appears to be adequately reasoned and no case has been set forth to suggest that conclusion could not be rested on the rationale relied upon. No law or provision thereof has been cited to suggest any dissonance of the judgment therewith. Under such circumstances, it is hereby observed that no question of law has been articulated before us in the present facts and circumstances, therefore, reference application is dismissed in limine.

It is noted with much consternation that the department is seeking to agitate issues which either have already been settled by the superior courts or ought not to be agitated in the reference jurisdiction *inter alia* on the premise that the last fact finding forum in statutory hierarchy is the learned Appellate Tribunal. The minutes of the last NJPMC meeting, which was attended by the Chairman, FBR as well demonstrate that the exchequer had undertaken to conduct an exercise and remove any frivolous and / or unwarranted matters from the docket of respective courts. This is one such example of unwarranted litigation, which merely clogs the docket and hampers revenue. We consider the department is in itself best placed to determine how to deal with such matters, therefore, let a copy of this order be sent to the learned Attorney General for Pakistan, the Secretary Revenue Division and the Chairman, FBR, Islamabad, for appropriate action.

A copy of this decision 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