

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**Special Customs Reference Application 1016 of 2024**

DATE	ORDER WITH SIGNATURES OF JUDGES
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1. For orders on office objection.
2. For hearing of Main Case.
3. For hearing of CMA 4552/2024.

**13.01.2026**

Mr. Asad Ali Khan Sherwani, advocate for the applicant.  
Mr. M. Adnan Moton, advocate for the respondent.

On 07.11.2025, following orders was passed:

**“07.11.2025**

Mr. Asad Ali Khan Sherwani, advocate for applicant.

1. Deferred.
2. Exemption application is granted subject to all just exceptions.
- 3-4. Learned counsel presses the following questions for determination:-
  - i. Whether the learned Appellate Tribunal has not grossly erred in law by ignoring the proviso to sub-section (2) of section 25A of the Customs Act, 1969 which unambiguously states that value mentioned in the invoice retrieved from the consignment shall be the applicable customs value for assessment of goods?
  - ii. Whether in the facts and circumstances of the case, and the law settled by the superior court, the learned Customs Appellate Tribunal has not travelled beyond its jurisdiction in the presence of the Hon'ble Supreme Court's judgment dated 06-09-2012 in the case of C.P.LA. No.146-K/2012: Junaid Traders v/s. Additional Collector of Customs, Appraisement. (2012 SCMR 1876) where in similar issue the invoice of higher value was found from the container and the Hon'ble Apex Court held that the invoice retrieved of higher value would be treated mis-declaration?
  - iii. Whether in the facts and circumstances of the case, the learned Tribunal was justified in accepting the unverified story of the importer made-up before the Tribunal and consequently accepted the fabricated transaction value declared by the importer without any lawful basis?
  - iv. Whether in the facts and circumstances of the case, the learned Customs Appellate Tribunal has not erred in law by not considering that as per section 79 of the Customs Act, 1969, the importer respondent is required to declare true & complete particulars of the imported goods correctly, and in case any discrepancy is observed in payment of revenue or declaration of any particulars of the imported goods, the provisions of section 32(1)(2) shall be invoked against them?

Notwithstanding foregoing, he states that the case before the learned Tribunal was of found invoice. He states that the nature and quantity of goods coincided with the consignment, however, it is only value that was at significant variance. He states that the issue has been discussed by the learned Tribunal in a perfunctory manner as can be seen in paragraph-18 of the impugned judgment, which reads as follows:-

"18. Further, as regards the charge of misdeclaration is concerned, we observe that the charge of misdeclaration can only be made on the declaration of the importer if the same is against the law and norms prevailing in the importing country. The importer is not responsible for the act or omission of the exporter. If the exporter/foreign supplier has mistakenly placed a wrong invoice, the same cannot be made the basis for implicating the Appellant for the charge of misdeclaration. Rather the same should be scrutinized on the basis of legal provisions as well as evidence available on record as discussed supra."

He states that the Tribunal is the last fact-finding forum in the statutory hierarchy and under no circumstances, could the impugned order be considered a speaking order.

Admit reference; notice to the respondent through first two modes as well as courier. Learned counsel is directed to place on record tracking report; to come up on 21.11.2025. In the meanwhile, operation of the impugned judgment is suspended."

Learned counsel for the respondent states that upon instructions in view hereof it may be just and proper to remand the matter for adjudication afresh expeditiously, preferably, within ninety (90) days. He seeks that pending aforesaid no coercive action be taken against the respondent arising therefrom. Learned counsel for the applicant articulates no cavil in such regard and requests that these references may be disposed of in the aforesaid terms. Order accordingly.

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

M. Khan