

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1913 of 2023

DATE	ORDER WITH SIGNATURES OF JUDGES
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- 1. For hearing of CMA 5479/2023.
- 2. For hearing of Main Case.
- 3. For hearing of CMA 5480/2023.

13.01.2026

Mr. Khalid Mehmood Rajper, advocate for the applicant.

The following questions of law have been proposed for determination:

- 1. Whether in consideration of the facts and circumstances of the case the Customs Appellate Tribunal has not indulged into mis/non-reading of evidence procured during investigation and relevant record and has arrived at an erroneous conclusion that the Respondent has produced delivery notes and the generators are not smuggled?
- 2. Whether in consideration of the facts and circumstances of the case the Respondents (claimant of impugned generators) have successfully discharged burden of proof of lawful possession as envisaged under clause (89) of sub-section (1) of Section 156 and Section 187 of the Customs Act 1969?
- 3. Whether the impugned generators of foreign origin are not liable to outright confiscation under clause (89) of sub Section (1) read with subsection (2) of Section 156 of the Customs Act, 1969, for violation of the provisions of Section 2(s) & 16 of the Act ibid, read with clause (a) of preamble to SRO 499(1) 2009 dated 13.06.2009?
- 4. Whether on consideration of the facts and circumstances of the case the impugned judgment passed by the Appellate Tribunal is sustainable under the law?

Learned counsel demonstrates from the record that service has been effected through publication as noted vide order dated 28.11.2025.

Learned counsel states that the Appellate Tribunal is the last fact-finding forum in the statutory hierarchy and the impugned judgment does not reflect adequate discussion or deliberation of independent issue pending before the Court. Learned counsel states that in the interest of justice and revenue, the impugned judgment may be set-aside and matter be remanded to the learned Tribunal for adjudication afresh. 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