

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 800 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.781/2023.
- 2. For hearing of main case.
- 3. For orders on CMA No.782/2023.

27.01.2026

Mr. Aqil Ahmed, advocate for the applicant.

This reference is pending since 2023 without any progress. Even notice has not been sought / issued till date. The operative part of the impugned judgment reads as follows:

“4. The appellant being aggrieved with the Order-in-Original No.126/2021-22 dated 11.10.2021 passed by the Collector of Customs (Adjudication-I), Karachi filed the instant appeal before this Tribunal on grounds that impugned order is unlawful, unwarranted, illegal unjust, unreasonable hence liable to be set aside to the extent of above named appellant. The appellant has no concern with M/s. New Balochistan Goods Forwarding Agency Quetta, seized goods / betel nuts and seized truck which was intercepted by the Directorate and from which the betel nuts were recovered. There is absolutely no material evidence against the appellant which could connect him with the allegations mentioned in the SCN. The customs authorities without any evidence and with malafide intention and ulterior motives nominated the appellant as respondent in the SCN and shown him as owner/beneficiary of the goods and owner of M/s. New Balochistan Goods Forwarding Agency, Quetta. It is surprising, the customs authorities also shown one Anaar Gul as Owner beneficiary of the seized goods. The provisions Section 2(s) of the Customs Act, 1969 are not applicable to the appellant as there is no allegation that appellant has smuggled and brought the goods into Pakistan. Perusal of SCN show that prosecution Invoked provision of Section 2(s) of the Customs Act, 1969 but the said provisions of Customs Act, 1969 are not applicable in the instant case as betel nuts are not Notified item and not included as a Notified item in the Notification No 566(1)2005 dated 06.06.2005 issued under Section 2(s) of the Customs Act, 1969. The learned advocate of the appellant never claimed /mentioned in the reply of SCN that he is appearing and contesting on behalf of the claimant /owner of the goods. The learned respondent No.1, that appellant is claimant / owner of the goods and it is incorrectly mentioned in the impugned order that undersigned appeared on behalf of claimant / owner of the goods. The learned respondent completely ignored the written reply of SCN and arguments advanced on behalf of the appellant. On perusal of impugned order which shows that respondent/ appellant did not produce the import documents of the seized Betel Nuts. The question of production of import documents does not arise on part of appellant as he never claimed the ownership of the seized betel nuts at any stage. The perusal of impugned order do not show that on the basis of which evidence / material that learned respondent No.1 imposed the fine upon the appellant. On perusal of impugned order which show that learned respondent No.1 imply reproduced the allegations leveled against the appellant by the respondent department in

SCN and did not apply his mind. In view of the above mentioned facts and grounds it is crystal clear that appellant did not commit any offence as alleged in SCN and impugned order is liable to be set aside to the extent of above named appellant.

5. I have examined the case record and facts of the case. The record reveals that the foreign origin betel nuts recovered from the impugned Truck were concealed beneath the loaded bags of rice, therefore, the recovered goods and truck were seized and confiscated. On the other hand, the appellant in present case is denying from the ownership of impugned Truck and betel nuts, hence he has not submitted any import documents showing the lawful possession of the betel nuts / goods and vehicle. The record of case is also silent about claimants who came forward and showed their right of ownership against the betel nuts and vehicle. As per record of case in hand no authorized documents were submitted by the appellants in respect of betel nuts, rice and vehicle nor any proof of payment of duty and taxes as required under Section 187 of the Customs Act, 1969.

6. Under the aforementioned circumstances, it is patently proved that the betel nuts were recovered in concealed condition from the impugned Truck therefore the impugned order in respect of betel nuts is a lawful order and needs not interference.. As regards to vehicle which has rightly been charged under Section 157(2) of the Customs Act, 1969 because smuggled goods were recovered in concealed condition from the Truck as well as benefit of SRO 499(I)/2009 dated 30.06.22009 has already been given to the owner / claimant of Hino Trailer and Container No.TKY-977 hence impugned order requires no change. As regards to rice which were already released by the Adjudicating Authority subject to condition of Pakistani origin. The penalties imposed on the owner of vehicle and owner of rice are maintained thus the impugned order is upheld without any change.

7. The appeal is disposed of in above terms with no order as to cost."

The learned Appellate Tribunal's findings appear to rested its findings on the appreciation of evidence and in consonance with law and nothing has been articulated before this court to distinguish or displace the same. Learned counsel remains unable to articulate any question of law arising here from. In view hereof, reference application is dismissed in limine.

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