

IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application Nos.1206 & 1207 of 2023

Date	Order with Signature of Judge
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Disposed off

1. For hearing of main case.
2. For hearing of CMA No.2862/2023.

29.01.2026

Mr. Khalid Mehmood Rajpar, Advocate for the applicant.

Despite service and entering appearance, the respondent remains unrepresented without intimation and justification. Learned counsel presses the following questions for determination:

- “1. Whether in consideration of the facts and circumstances of the case, the 1st Respondent (herein) has not committed offence of deliberate mis declaration of description, PCT Classification and non-application of Valuation Ruling in the self-assessed Goods Declarations filed under Section 79(1) of the Customs Act, 1969, an act within the contemplation of Section 32(1) and (2) punishable under clause (14) of subsection (1) of Section 156 of the Act *ibid*?
2. Whether the Appellate Tribunal in concluding that the action of the Directorate General of I&1-Customs, under the provisions of Section 32(1) & (2) of the Customs Act, 1969, is beyond its powers and authority, has not erred in law and indulged in misreading of SRO No. 486(1)/2006 dated 09.06.2007, wherein the officers have been specifically empowered to exercise the authority under Sections 17, 26, 91, 139, 161, 168, 197, 198 and 199 of the Customs Act, 1969-which sections categorically deal with the smuggled non-duty paid goods and those goods lying in a Customs Area or cleared there from?”

Learned counsel demonstrates that the same is covered by the Supreme Court judgment in the case of Nestle Pakistan Limited (2025 SCMR 1974) the operative portion whereof reads as follows:

“21. On the basis of the foregoing, it is important to note that the provisions of Section 32 of the Customs Act and Section 6(1) of the Sales Tax Act, as presently worded, contain the language inserted by the Finance Acts of 2014 and 2015. These amendments are material because they reveal the legislative intent that prompted the inclusion of the terms taxes in Section 32 and including recovery in Section 6(1). Taken together with the subsequent omission of Section 11 of the Sales Tax Act by the Finance Act 2024, a clear trajectory emerges: Parliament has consciously moved away from a broad, catch-all recovery jurisdiction of Inland Revenue, and toward a coherent framework in which customs duty, sales tax, and advance income tax, all levied at the point of import, are administered and, where

necessary, recovered through the machinery of the Customs Act. To disregard the significance of these insertions and omissions would be to overlook the deliberate coherence Parliament has sought to create in the scheme of import-stage taxation.

22. Accordingly, this Court is satisfied that under the statutory framework comprising the Customs Act, the Sales Tax Act, and the Income Tax Ordinance, as read in light of the various Finance Act amendments discussed above, the Customs authorities do retain jurisdiction to recover import-stage sales tax and advance income tax, even where short-levy is discovered after clearance of goods.”

Learned counsel states that the abovementioned authority of the Hon’ble Supreme Court is squarely binding upon this Court, therefore, in mutatis mutandis application thereof the question framed for determination be answered in favour of the applicant-department. Order accordingly. Office to place a copy of this order in all above connected reference application.

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

Asif