ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 193 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For hearing of CMA 2432/2025.
2. For hearing of main case.
3. For hearing of CMA 2433/2025.

03.08.2026

Mr. Khalid Mehmood Rajper, advocate for the applicant.

Following questions had been proposed for determination:

i. Whether Tribunal has passed speaking order under section 24-A of General Clauses Act being last fact finding forum & gave any reasons or findings while disposing impugned Appeal, just mentioned some appeal No.,?

ii. Whether offence of misdeclaration through under invoicing comes within the meaning of Section 32(1) and 79(1) & applicant has jurisdiction to recover sales tax, income tax, custom duty and additional Sales tax discovered to be short-levied, inadmissible exemption claimed after clearance of goods in accordance with law, as to recover duty and taxes, recently settled in principle by SC in M/s Nestle Pakistan reported 2025 SCMR 1974?

iii. Whether Appellate Tribunal erred in the law by not considering that the officers of the PCA organization have been empowered by the Federal Government through SRO 500(1)/2009 dated 13-06-2009 to be the officers of Customs and to exercise the functions of the appropriate officers for in terms of section 202 of the Customs Act 1969?

iv. Whether in the light of facts and circumstances of the case the Honourable Appellate Tribunal erred in the law and facts by not considering that the penal clauses of section 156 (12), (12A), (128), (14-1), (14-n) and 156 (141) mentioned in the show cause notice relates to the offence committed in terms of Section 32(1) (2) and (3A) of the Customs Act. Hence the show cause contains the provision of Section 32 of the Act?

Notwithstanding the foregoing, learned counsel states that the impugned judgment is merely comprising of reproduction and is devoid of any due discussion and or deliberation.

Learned counsel demonstrates from the record that service has been effected through publication as noted vide order dated 15.04.2026.

The Appellate Tribunal is the last fact-finding forum in the statutory hierarchy; therefore, it is incumbent upon it to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed has been emphasized by the Supreme Court in the judgment reported as 2019 SCMR 1726. This High Court has consistently maintained that the Appellate Tribunal is required to proffer independent reasons and findings, and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on the judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgments have also maintained that if the impugned order is discrepant in the manner as aforesaid, the correct course is to remand the matter for adjudication afresh. Reliance is placed on the judgment dated 10.12.2024 in ITRA 343 of 2024.

We are of the considered view that the impugned judgment could not be considered to be a speaking order and is *prima facie* devoid of any independent reasoning etc. The entire judgment comprises essentially of reproduction and is crowned with a dissonant conclusion. Hence, no case is set forth to sustain the impugned judgment, which is hereby *set aside* and the matter is remanded back to the Appellate Tribunal for adjudication afresh in accordance with law.

A copy of this decision may also 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