

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 493 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For hearing of main case.
- 2. For hearing of CMA 2416/2024.

03.08.2026

Mr. Khalid Mehmood Rajper, advocate for the applicant.

Following questions have been proposed for determination:

- i. Whether in the facts and circumstances of the case, the 1st Respondent (herein) without claiming ownership of impugned goods and associating him with the adjudication proceedings had locus standi to assail the original order as an aggrieved person under the provisions of Section 194-A of the Customs Act, 1969? And whether Customs Appeal No.251/2024, preferred by 1st Respondent (herein) was not liable to be dismissed?
- ii. Whether in the facts and circumstances of the case the Appellate Tribunal has not arrived at erroneous conclusion in holding that the 1st Respondent (herein) has discharged burden of proof of lawful possession as required under clause (89) of sub-section (1) of Section 156 and Section 187 of the Customs Act, 1969?
- iii. Whether in consideration of the facts and circumstances of the case the Appellate Tribunal has not erred in law to hold that search conducted under the provisions of Section 163 of the Customs Act, 1969, is without lawful authority and illegal?
- iv. Whether in the facts and circumstances of the case the impugned judgment is not based on mis-placed case law, perverse, arbitrary and outright illegal, thus liable to be set aside?

Pursuant to orders for substituted service, service has been effected through publication and the relevant newspaper excerpt has been placed on file.

Learned counsel states that the respondents have never joined adjudication proceedings and had come before the Appellate Tribunal for the first time. He states that even though the contentions of the respondents are contrary to their record, however, even if the same were to be given credence

by the learned Tribunal the correct course of action ought to have been to remand the matter to the adjudication officer and not give the respondents the benefit of its own truancy. Learned counsel states that notwithstanding the foregoing the entire adjudication process was set to naught by the learned Tribunal and the respondents were given un-adjudicated benefit even though the same was in respect of smuggled goods.

Learned counsel seeks that it would be in the interest of justice and of all parties the impugned Judgments are set-aside and the matter remanded back to the learned Adjudicating Officer for expeditious disposal, preferably, within 30 days, after providing an opportunity of hearing to all concerned. Order accordingly. The reference is disposed of.

TA 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