

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 628 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For hearing of CMA 3573/2022.
- 2. For hearing of main case.
- 3. For hearing of CMA 3578/2022.

03.08.2026

Mr. Khalid Mehmood Rajper, advocate for the applicant.

Following questions of law are proposed for determination:

- 1. Whether the Appellate Tribunal has not erred in law set-side reasoned Order-in-Original No.51/2022 dated 21.03.2022, adjudication authority has rightly ordered to confiscate vehicle under section 157(2) of the Customs Act, 1969, as the vehicle was used twice for carrying smuggled goods? Covered through 2025 SCMR 684 (DIRECTORATE OF 1 & 1 CUSTOMS VS BASHIR AHMED) & 2025 SCMR 1912 (M SHAZAD V/S PREVENTIVE KARACHI CUSTOMS & OTHERS).
- 2. Whether the Appellate Tribunal has not erred in law that the vehicle Le. Hino Truck (10-wheeler) bearing registration No.C-2156 was exclusively and wholly used for the transportation of smuggled foreign origin Cigarettes, Betel Nuts, 2(s) items is liable for outright confiscation under clauses (8) and (89) of subsection (1) of Section 156 and Section 157(2) of the Customs Act, 1969, read with clause (b) of preamble of SRO 499(1)/2009 dated 13.06.2009? the same is covered through Honorable SC judgement in case of 2025 SCP 452 (Collector of Customs v/s Muhammad Rizwan & others?
- 3. Whether the Appellate Tribunal has not erred in law that the owner/claimant of the vehicle has not disclosed the identity of the owner of foreign origin Cigarettes & Betel Nuts as required under Section 187 of the Customs Act, 1969 and has approached to Appellate Tribunal with unclean hands and as such was not entitled for any equitable relief?
- 4. Whether a non-speaking order passed by the Appellate Tribunal, without recording reasons on material statutory requirements, can legally sustain in view of the mandatory requirement of reasoned adjudication under Section 24-A of the General Clauses Act, 1897?"

Notwithstanding the foregoing, learned counsel states that the impugned judgment is devoid of any independent discussion, deliberation and or reasoning.

Pursuant to orders for substituted service, learned counsel states that the service has been effected through publication and the relevant newspaper excerpt etc. is available on record.

Learned counsel states that in identical matters the question has already been determined in favour of the applicant department by the Superior Court and in such regard places reliance on order dated 09.04.2026 passed in SCRA Nos.1108 & 1109 of 2023, which reads as follows:

“09.04.2026

Mr. Khalid Mehmood Rajpar, Advocate for the applicant

Following questions had been proposed for determination:

- 1. Whether in the facts and circumstance of case, the first respondent at the adjudication stage proceedings, disowned any connection with goods and disowned himself & requested for release of Vehicle only on redemption of fine & penalty under SRO 499/2009?*
- 2. Whether respondent No. 1 has illegally and unlawfully assailed Order in Original & Order in Appeal passed by Collector before learned Tribunal had locus-standi to assail as an aggrieved person under provisions of section 194(A); for smuggled goods and discharged burden of Proof under section 187 of the Custom Act 1969?*
- 3. Whether the Customs Appellate Tribunal acted without lawful authority and misread the evidence on record by accepting documents which were admittedly discussed by adjudicating authority with reasons, are unrelated to the seized consignment, thereby recording a finding which is perverse and based on no evidence?*
- 4. Whether impugned judgment being based on misreading of evidence and relevant provisions of Customs Act, 1969, is sustainable under the law?"*

Learned counsel states that the respondent had been continuously avoiding adjudication for the past three years, therefore, orders for substituted service had been passed. He states that the service has been effected through publication and the relevant newspaper excerpts etc. are available on record.

Learned counsel states that the questions proposed are not that of first impression and have been conclusively decided by the Supreme Court in favour of the applicant-department, inter alia, by virtue of the following judgments:

- i. Director, Intelligence & Investigation (Customs) FBR, Peshawar vs. Muhammad Ishaq (2026 PTCL (CL) 134];*
- ii. Collector of Customs v/s Muhammad Rizwan & others [2026 PTCL (CL) 134); and*
- iii. Shahzad vs. The Collector of Customs, MCC, (Preventive). Karachi and another] [2025 PTCL (CL) 654).*

Learned counsel states that in mutatis mutandis application of the binding authorities cited supra, the questions may be decided in favour of the applicant-department and against the respondent. Order accordingly. References are disposed of in the said terms. Office to place a copy hereof in connected reference.

A copy of this decision may also be sent under the seal of this Court and signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.”

Learned counsel states that the conclusive pronouncement of the Supreme Court in such regard has also been reported as 2026 SCMR 885 and thereafter, the review there-against has already been dismissed by the Supreme Court vide order dated 19.05.2026 passed in Civil Review Petition No.4 of 2026.

Learned counsel states that in mutatis mutandis application of the binding authorities cited supra, the questions may be decided in favour of the applicant-department and against the respondent. Order accordingly. Reference is disposed of in the said terms.

A copy of this decision may also be sent under the seal of this Court and 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