

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Special Customs Reference Application 943 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection.
- 2. For hearing of CMA 1341/2023.
- 3. For hearing of main case.
- 4. For hearing of CMA 1342/2023.

03.08.2026

Mr. Faheem Raza Khuhro, advocate for the applicant.

Following questions of law had been proposed for determination:

- i. Whether the on the facts and the circumstances of the case, the Customs Appellate Tribunal has justified to hold that iron tank fabricated within the walls of a dumper truck and covered with sand and gravel does not fall under the ambit of false cavity or concealment as defined in the expressed provision of SRO 499(1) /2009 dated 13.06.2009?
- ii. Whether the learned Bench of Customs Appellate Tribunal has fallen in error to hold that Hino Dumper Truck carrying smuggled high speed diesel in false cavity concealed underneath the gravel and sand can be released after payment of redemption fine under SRO 499(1)/2009 dated 13.06.2009?
- iii. Whether the Customs Appellate Tribunal has erred in law to consider that SRO-499(1)/2009 does not put the barrier on release of such vehicles (dumper truck) used wholly or exclusively in transportation of smuggled goods under the false cavities?

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