THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Appeal No. No. 30 of 2026
[Abdul Qadir Memon v. The State]

Appellant	:	Abdul Qadir Memon son of Abdul Latif through Mr. Ahmed Ali Hussain, Advocate, alongwith Mr. Ahmed Hanif, Advocate.
Respondent-State	:	Mr. Khalid Mahmood Rajpar, Advocate, alongwith Mr. Haseeb Ahmed Bajwa, Assistant Director.
Date of hearing	:	06-08-2026
Date of decision	:	06-08-2026

O R D E R

Adnan Iqbal Chaudhry J.– M.A. No. 11411/2026: The charge against the Appellant was that as Director of the importing company, he had misused the Export Facilitation Scheme (EFS) by diverting imported duty-free raw material in local sales instead of employing the same in the manufacture of goods for export. He was further charged for suppressing documents/record summoned by the Customs for audit proceedings initiated to unearth the misuse of the EFS. The Appellant was thus convicted for offences punishable under clauses 10A, 12A, 12B, 14A and 77 of section 156(1) of the Customs Act, 1969. The sentences run concurrently, with the maximum sentence being imprisonment for five years apart from the fines imposed.

2. Learned counsel for the Appellant submits that conviction has been made on a misreading of the evidence; that the Appellant had in fact export around 60% of the goods imported, that too prior to the FIR; whereas, the remainder was at the port for export when a hold was placed by the Customs pursuant to adjudication proceedings with same allegations, whereupon the Appellant paid the full amount of customs duties and taxes so adjudicated; however, said payment was construed by the trial Court as an admission of guilt. On the other hand, learned counsel for the Respondent submits that 1419

metric tons of goods imported under the EFS remained unaccounted for even after a search of the Appellant's factory.

3. From a perusal of the impugned judgment, it appears that the learned trial Court convicted the Appellant for his inability to account for duty-free goods imported under the EFS. However, the judgment does not substantiate the conviction by a comparison of the GDs filed by the Appellant for import under the EFS and its subsequent export.

4. Apparently, the Customs had also initiated an audit to ascertain the mis-use of the EFS albeit for purposes of adjudication proceedings. Nevertheless, an audit report in that regard would be a crucial piece of evidence with the prosecution. Learned counsel for the Respondent acknowledges that fact. However, the impugned judgment makes no reference to any audit report. Therefore, there is force in the submission that the conviction followed merely on an adverse inference drawn from the duty and taxes paid by the Appellant upon adjudication proceedings.

5. Learned counsel for the Appellant further submits that the Appellant remained on bail throughout the trial.

6. Though learned counsel for the Respondent opposes the application, in view of the foregoing I am inclined to allow the same. Therefore, the sentence awarded to the Appellant by judgment dated 22-07-2026 in the Case No.72/2025 arising from FIR No.05/2025-PCA, is suspended, and the Appellant is granted bail under section 426 Cr.P.C. subject to furnishing solvent surety in the sum of Rs.1,000,000/- (Rupees One Million only) and P.R. bond in like amount to the satisfaction of the Nazir of this Court. M.A. No. 11411/2026 is allowed in said terms.

JUDGE

SHABAN*