

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Agha Faisal
Mr. Justice Dr. Shah Nawaz Memon

Sr. No.	Case No.	Parties Name
01	Spl. Cus. Ref. A. 23/2026	The Collector of Customs (Hqrs), Karachi VS M/s. Eagle Clearing & Forwarding Agency, Karachi
02	Spl. Cus. Ref. A. 215/2025	The Collector of Customs (Hqrs), Karachi VS M/s. Eastern Agencies Corporation, Karachi
03	Spl. Cus. Ref. A. 216/2025	The Collector of Customs (Hqrs), Karachi VS M/s. HMA Enterprises, Karachi
04	Spl. Cus. Ref. A. 217/2025	The Collector of Customs (Hqrs), Karachi VS M/s. S.M. Enterprises, Karachi.
05	Spl. Cus. Ref. A. 221/2026	The Collector of Customs (Hqrs), Karachi VS M/s. Z. S. Sachwani & Co., Karachi
06	Spl. Cus. Ref. A. 24/2026	The Collector of Customs, (Hqrs) Karachi VS M/s. Fahad Impex, Karachi
07	Spl. Cus. Ref. A. 27/2026	The Collector of Customs (Hqrs), Karachi VS M/s. Hamd Associates, Karachi
08	Spl. Cus. Ref. A. 28/2026	The Collector of Customs (Hqrs), Karachi VS M/s. Fawad Omad Enterprises, Karachi
09	Spl. Cus. Ref. A. 70/2026	The Collector of Customs (Hqrs), Karachi VS M/s. Cargo Trading System, Karachi

Date of hearing: 06.10.2026
Date of judgment: 09.10.2026

Applicants: Through M/s. Agha Shahid Majeed Khan, Muhammad Zakir Khan, Faheem Raza Khuhro Advocates.

Respondents: Through M/s. Zain-ul-Abidin Jatoi, Umer Ilyas Khan, Muhammad Nazir Abbasi, Mustafa Mumdani, Muhammad Rafi Kamboh, Manzar Hussain & Muhammad Adil, Advocates.

J U D G M E N T

DR. SHAH NAWAZ MEMON, J.: — These nine Special Customs Reference Applications have been preferred by the Collector of Customs (Headquarters), Karachi, through the Deputy Collector acting as Licensing Authority, under section 196 of the Customs Act, 1969 (“the Act”). Each arises from proceedings under rule 102 of Chapter VIII of the Customs Rules, 2001 (“the Rules”), in which the licence of the respondent customs agent was revoked, and its security forfeited, on the allegation that it had attempted to influence an Appraising Officer through illegal gratification. In each case the learned Customs Appellate Tribunal (“the Tribunal”) set aside the show cause notice, the order-in-original and the order-in-appeal, and restored the licence. The references were heard together. Arguments were addressed in two of them, Spl. Cus. Ref. A. No. 23 of 2026 (M/s Eagle Clearing & Forwarding Agency) and Spl. Cus. Ref. A. No. 215 of 2025 (M/s Eastern Agencies Corporation), and learned counsel for

both sides in the remaining references adopted those arguments. They stated that the remaining references are identical in nature, that the show cause notice is assailed in each of them on the same grounds, and that they would be governed by the decision in the two references argued. We have examined the record of each reference. The particulars differ from case to case, but the show cause notices are in the same terms and the questions are the same. We have accordingly treated the two references argued as the lead cases and decide all nine by this common judgment.

I. FACTS OF THE CASE

2. The facts may be stated briefly, because the questions turn on what the show cause notices contained rather than on the merits of the underlying allegations. Towards the end of January 2025, proceedings were initiated against one Muhammad Ismail, Appraising Officer (BPS-16), then posted in the Customs Assessment Unit, on allegations that he had demanded and received illegal gratification from customs agents in respect of goods declarations assessed by him, and FIR No. 01/2025 was registered on 30.01.2025. In the course of that probe a mobile phone said to belong to one Ayaz Ali s/o Khadim Hussain, described in the orders below as a driver and as the conduit of the Appraising Officer, was examined and WhatsApp communications were retrieved from it.
3. On 01.02.2025 the licences of the respondents, among other customs agents, were suspended by a circular under rule 102(4) of the Rules, and on the same day show cause notices were issued to them. The charges in the notice issued to M/s Eagle Clearing & Forwarding Agency read:
 - (i) That you contacted and offered illegal gratification to Customs Appraiser(s) through Mr. Ayaz Ali (S/o Khadim Hussain) CNIC No. 42401-3660412-1 seeking favorable assessment against filed goods declarations by you. This was corroborated by WhatsApp chats retrieved from Mr. Ayaz Ali's and Mr. Muhammad Ismail mobile phone.
 - (ii) That scrutiny of mobile phone belonging to Mr. Ayaz Ali revealed that you sought names of Appraising officers(s) to whom the GD filed by you were assigned in order to influence the assessment of the GDs filed by you and,
 - (iii) That you have attempted to influence / offer bribe to officer(s) of Customs and your actions are in violation to the Customs Agents Licensing Rules, 2001.
4. The notice to M/s Eastern Agencies Corporation contains the first and third of these charges, but not the second. Both notices called upon the licensee to show cause why action should not be taken under clauses (e), (g), (h), (i) and (k) of rule 102(1),¹ and why its security should not be forfeited under rule

¹ Rule 102(1) of the Rules, so far as relevant: "The licensing Authority may revoke or suspend a license or permit of any Customs Agent for one or more than one of following reasons, namely: ... (e) violation by the licensee of any provision of Act or the rules, regulations, notifications, instructions or orders issued there under; ... (g) negligence or inefficiency of the licensee in the discharge of its obligations; (h) unsatisfactory conduct of the licensee while transacting customs business or in relation to any

- 102(2),² and fixed a hearing for 10.02.2025. Neither notice identifies any goods declaration, any amount, any date or mode of payment, or any person on the licensee's side who is said to have made the offer. Nothing in the notices indicates that any transcript of the WhatsApp communications, or any other document, was enclosed, and the record before us does not suggest otherwise.
5. The respondents replied on 06.02.2025, denying the allegations and asking to be provided with the material on which they were founded. They also approached this Court in C.P. Nos. D-617 and D-613 of 2025, and by orders dated 14.02.2025 the suspension circular was suspended, whereupon the suspension was withdrawn without prejudice to the show cause proceedings. By a hearing notice dated 17.02.2025, the respondents were told that the Collectorate had scrutinised their replies and that "the evidence reveals" that they had offered illegal gratification against filed goods declarations. In their written submissions of 21.02.2025 they reiterated that no material had been supplied to them and that, until it was, they were unable to meet it. The orders-in-original record that "details regarding GD filed by Custom Agent against which illegal gratification was offered had been provided", but neither order identifies any such goods declaration.
 6. By Orders-in-Original Nos. 09/2025 and 26/2025, both dated 13.03.2025, the Licensing Authority held the charges established under clauses (e), (g), (h), (i) and (k) of rule 102(1), revoked the licences and directed forfeiture of the security. It is in these orders that the particulars of the case found against the licensees appear for the first time. In the case of Eagle, the order finds that "the clearing agent" asked Ayaz Ali for an Easy Paisa account number and transferred Rs.4,000, Rs.22,000 and Rs.25,000 into it on 29.01.2025, 07.01.2025 and 29.01.2025. In the case of Eastern Agencies, the transfer found is of Rs.425,000 into the Easy Paisa account of Ayaz Ali on 09.01.2025. The argument that no loss of revenue had been shown was rejected as irrelevant to proceedings under the Rules.
 7. The Chief Collector of Customs, Appraisement (South), dismissed the appeals preferred under rule 103.³ In Eagle's case, the order-in-appeal records that "the person namely Yasir Irfan was working on behalf of the appellant and there is no dispute regarding this fact", that payment of the bribe was proved from the record, and that the appellant's overall profile, in which contraventions had been made out in the past, offered no ground for leniency. In the case of

person who has entrusted it with any customs business; (i) failure of the licensee to comply with any of the bond executed by him under this chapter; ..." Clause (k) is reproduced in paragraph 17 below.

² Rule 102(2) of the Rules: "In case of revocation of a licence under sub-rule (1), the licensing Authority may, after issuing show cause notice to the licensee, forfeit the whole or part of the security deposited by the licensee under rule 95 for the settlement of any duty, taxes or any other charges due from him."

³ Rule 103 of the Rules: "Any customs Agent, aggrieved by any decision or order of the licensing Authority denying, revoking or suspending a licence or permit under this chapter may prefer an appeal with the Chief Collector within sixty days of the passing of such decision or order."

- Eastern Agencies, the departmental representative stated before the Chief Collector that the money had been transferred to the account of M/s Overseas International Cargo, a former customs agent whose licence stood cancelled, and that this account was operated by the Appraising Officer himself. Reliance was also placed on an audio conversation and a bank statement obtained during the investigation, and on the licensee's past record, said to include three contravention cases and incorrect declarations in 3,491 of 54,054 goods declarations. The Chief Collector accepted this material in dismissing the appeal.
8. Before the Tribunal, the Collectorate filed para-wise comments and, with them, the material on which it relied. In Eagle's case this comprised screenshots of three transfers. In the case of Eastern Agencies it comprised a transcript, in Urdu and English, of the WhatsApp communications, the voice notes on a USB device, a statement of the account of M/s Overseas International Cargo, and a performance report of the licensee. Eastern Agencies, for its part, stated in its memo of appeal that the chat, which had by then circulated widely, referred to two goods declarations filed on 22.01.2025, thirteen days after the transfer, and that the sum of Rs.425,000 had been paid to M/s Overseas International Cargo towards transport charges on behalf of its clients.
 9. In the lead cases, the Tribunal allowed the appeals by judgments dated 21.10.2025 (Customs Appeal No. K-640/2025, Eastern Agencies) and 23.12.2025 (Customs Appeal No. K-891/2025, Eagle). Its reasons, which are materially the same in both and are repeated in the judgments in the connected references, may be summarised thus. First, the show cause notices did not identify any goods declaration or customs document to which the alleged influence related, nor the person on the licensee's side said to have been in communication with Ayaz Ali, and so did not inform the licensees "regarding the allegations" as rule 102(3) requires. Secondly, the orders below travelled beyond the notices: the orders-in-original by relying on goods declarations and transfers never put to the licensees, and the orders-in-appeal by relying on past conduct and, in one case, on the account of M/s Overseas International Cargo. Thirdly, the identities of the participants in the WhatsApp communications, and the ownership of the numbers, had not been authenticated, and in Eagle's case only one of the three transfers, of Rs.4,000, was shown to have been made by an employee of the licensee. Fourthly, for the purposes of rule 102(1)(k) there had to be an *actus reus* "not only for getting favour but also the nature and extent of benefit secured", and since goods declarations are assigned and disposed of by an automated system on a first in first out basis, the benefit drawn had to be shown.

10. We have examined the record of each of the connected references. In each, the show cause notice was issued on 01.02.2025 in the terms reproduced above, naming no goods declaration, amount, date or person on the licensee's side; in each, the particulars on which the revocation rested appeared for the first time in the order-in-original dated 13.03.2025; and in each, the Tribunal set aside the proceedings for the reasons summarised above.

II. THE QUESTIONS ADMITTED

11. Spl. Cus. Ref. A. Nos. 23 and 24 of 2026 were admitted by order dated 23.02.2026 on the following questions, which were argued at the hearing:
1. Whether on the facts and circumstances of the case the Customs Appellate Tribunal erred in law by not considering that the legal requirements for show cause notice were fulfilled and that there were no material infirmities in the body of the show cause notice?
 2. Whether on the facts and circumstances of the case the learned Customs Appellate Tribunal erred in not considering the irrefutable evidence of gratification by customs clearing agents in violation of the rules presented before it?
 3. Whether the learned Tribunal misapplied rule 102(1)(k) by treating "actual benefit or outcome in specific GDs" as a necessary element, while the rule expressly covers attempts or offers to influence a customs officer regardless of outcome?
 4. Whether the learned Tribunal erred in holding that digital/WhatsApp evidence required mandatory forensic certification, despite the Qanun-e-Shahadat Order, 1984 read with Article 164 permitting reliance on electronic transaction data supported by circumstantial record?
12. Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 were admitted by order dated 01.04.2026 on four questions. Two of them are the same as Questions 1 and 3 above. The other two ask whether the Tribunal erred in not considering that the respondent had violated rule 102 of Chapter VIII of the Rules, and whether it failed to appreciate that a customs agent's licence is a conditional privilege and not a vested civil right, liable to be revoked upon breach of the code of conduct prescribed under rule 102. The first of these is in substance the same as Question 2, and we deal with the two together; the second is dealt with in Part IX. The questions on which notice was issued are thus not uniform across the references, and we answer only those questions. Since every reference turns on the same show cause notice, the answers given below govern all of them.

III. SUBMISSIONS

13. Learned counsel for the applicant submitted that the Tribunal materially erred in law in holding that the ingredients of a show cause notice were not fulfilled and that the notices were vague, when all the requirements had been duly met. He contended that there is an admission, or confession, of the transfer of

- money, which the Tribunal disregarded without justification; that the WhatsApp chats, read with the banking transfers, established that money was transferred for obtaining favour in the processing of goods declarations; and that a person transferring a bribe cannot be expected to set out, at the same time, the details of the goods declarations in which favour is sought. He submitted that these cases expose a cartel in which customs agents, in collusion with customs officers, process goods declarations in a manner that causes loss to the public exchequer, and that under the Rules even an attempt to bribe or influence an officer of customs attracts action against a customs agent.
14. Mr. Zain-ul-Abidin Jatoy and Mr. Umer Ilyas Khan, learned counsel, led the arguments on behalf of the respondents, and the other learned counsel for the respondents adopted their submissions. They submitted that no goods declaration was identified against which the money was allegedly transferred; that neither the WhatsApp chats nor any other incriminating document was provided to the respondents before action was taken; that the principles of natural justice were violated and the respondents were condemned unheard; and that the drastic action of revoking a licence to practise as a customs agent cannot rest on hearsay. The allegations in the show cause notices, they contended, are general in nature, and no such action can be founded on them. They submitted that the Tribunal, being the last fact-finding forum, examined the matter thoroughly before deciding against the department, and that in its reference jurisdiction this Court cannot re-examine facts settled by that forum.
15. In rebuttal, learned counsel for the applicant reiterated that there is an admission that money was transferred and received by the customs officer, and submitted that the transferor of the money is the driver of the customs agent, so that the link between the customs agent and the customs officer stands established. He urged that the questions be answered in favour of the applicant.

IV. THE SCOPE OF THE REFERENCE

16. The jurisdiction under section 196 is confined to questions of law arising out of the order of the Tribunal. The Tribunal is the final forum of fact, and its findings of fact bind this Court unless they rest on no evidence, on a misreading of the record or on a misdirection in law, in which case a question of law does arise.⁴ The reference is not an occasion to reweigh the material and substitute our own appreciation for that of the Tribunal. Question 2, and the corresponding question in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 whether the respondent violated rule 102, invite that exercise, and we deal with them on that footing

⁴ *Pakistan State Oil* [2006 SCMR 425], where the Supreme Court observed that the factual controversy is sorted out up to the level of the Tribunal and that the remedy under section 196 is restricted to legal points; a question which cannot be answered without going into the facts is not a question of law.

below. The remaining questions raise points of law: the content of the requirement in rule 102(3), the ingredients of rule 102(1)(k), the treatment of electronic material, and the nature of the licence.

V. THE LICENSING FRAMEWORK

17. No person may act on behalf of a principal in the transaction of customs business unless licensed as a customs agent in accordance with the rules.⁵ The licensing regime is in Chapter VIII of the Rules.⁶ Rule 101 sets out the responsibilities of a licensee; among them, by clause (m), the licensee shall not attempt to influence the conduct of any officer of customs by offering any special inducement or promise of advantage, any gift or favour or other thing of value.⁷ The licensee is responsible for all acts of its authorised representatives and permit holders.⁸ Rule 102(1) lists the grounds on which a licence may be suspended or revoked, and sub-rules (3) and (4) regulate the exercise of that power. The provisions directly in issue read:

102. Action in case of violations.—(1) The licensing Authority may revoke or suspend a license or permit of any Customs Agent for one or more than one of following reasons, namely:— ... (k) attempt by the licensee to influence the conduct of any employee in the custom house, custom station, port or airport by the use of force, intimidation, false accusation, duress, bribery or by offering any special inducement or gift; ...

(3) The Collector or the licensing Authority, as the case may be, shall not pass any order under sub-rules (1) and (2) to revoke the license or permit unless the licensee is informed in writing regarding the allegations and opportunity of hearing is afforded. While passing an order for revocation of licence, the Collector or the licensing Authority, as the case may be, may also direct forfeiture of the security deposited by the licensee under rule 95.

(4) The licensing authority may, in cases where immediate action is considered necessary against the licensee, suspend his license forthwith after recording reasons in writing pending the final action under the Act and rules made thereunder.

18. Two features of this scheme bear directly on the questions before us. The first is the breadth of the obligation of integrity: both rule 101(m) and rule 102(1)(k) are directed at an attempt to influence an officer. The second is that the power

⁵ Section 207 of the Act: “No person shall act on behalf of any principal for the transaction of any business relating to the entrance or departure of any conveyance or any customs clearance related activity or the import or export of goods or baggage at any customs-station unless such person holds a licence granted in this behalf in accordance with the rules as a customs agent.”

⁶ Chapter VIII of the Rules was substituted by S.R.O. 498(I)/2009 dated 13.06.2009. The show cause notices and the orders below refer to the Rules as notified by S.R.O. 450(I)/2001 dated 18.06.2001; nothing turns on this, since rules 101 and 102 of the substituted Chapter are the provisions applied.

⁷ Rule 101 of the Rules: “A licensee shall, ... (m) not attempt to influence the conduct of any officer of customs in any matter pending before the custom house, custom station, port or airport by the use of force, intimidation, false accusation, duress thereof or by offering any special inducement or promise of advantage, any gift or favor or other thing of value; ...”

⁸ Rule 98(9) of the Rules: “The licensee shall be responsible for all acts of his authorized representative or any person holding a customs permit on his behalf.”

of revocation, the gravest action available under rule 102, is conditioned by sub-rule (3): no order of revocation may be passed unless the licensee is informed in writing regarding the allegations and given an opportunity of hearing. The conditions attached to the power are as much a part of the scheme as the power itself.

VI. WHETHER THE SHOW CAUSE NOTICES MET RULE 102(3)

19. Rule 102(3) requires the licensee to be informed in writing “regarding the allegations”. What must be conveyed are the allegations, that is, the facts said to constitute the breach, and not merely the conclusion that a breach has occurred. The Supreme Court in *Muhammad Ismail* explained that a show cause notice is meant to afford a reasonable opportunity to defend the allegations and to explain why penal action should not be taken, and held that it “must contain all the allegations categorically and unambiguously, including the legal provisions related to the transgression of law or default”.⁹ An allegation that a licensee attempted to bribe an officer has a factual content: what was offered or paid, when, by whom on the licensee’s behalf, to whom, and, where the attempt is said to appear from electronic communications, which communications. It is that content which the licensee must know if it is to answer the charge, whether by denial, by explanation, or by disputing the attribution.
20. Measured against this, the notices fall short. They name the Appraising Officer, the intermediary and the provisions said to have been violated, and to that extent they are not empty. On the act itself, however, they state a conclusion: that the licensee “contacted and offered illegal gratification” and “attempted to influence / offer bribe”. They do not say what was offered or paid, when or how, or by whom on the licensee’s side, and they do not disclose the communications by which the conclusion is said to be corroborated. The respondents asked for that material. The hearing notice of 17.02.2025 did not provide it; it repeated the conclusion. Faced with notices of this kind, a licensee can do little more than deny, and that is all the respondents were in a position to do.
21. That the particulars were essential is borne out by what followed. The orders-in-original rest on specific transfers of specific amounts on specific dates. Those transfers were known to the Collectorate, for they are recited in the orders, yet they were never put to the licensees in writing before the orders were made, and the underlying material came on record only before the

⁹ *Muhammad Ismail* [2023 SCMR 1319]. See also *Khyber Electric Lamps* [2001 SCMR 838], where notices which did not state with proper particulars the allegation on which the statutory provision depended were held to be vague and of no legal effect; and *Fazal Hussain* [2026 SCMR 723], where the Supreme Court held that the statutory ingredients must appear on the face of the notice and that, in their absence, the notice is void for vagueness.

Tribunal, after the licences had been revoked. Meanwhile the department's account of the facts changed from one forum to the next. In Eagle's case, the order-in-original attributes all three transfers to "the clearing agent"; the order-in-appeal introduces one Yasir Irfan as acting on its behalf; and the screenshots filed before the Tribunal show three transfers by three different persons, of whom only the sender of Rs.4,000 is said to be an employee of the licensee. In the case of Eastern Agencies, the order-in-original finds a transfer into the Easy Paisa account of Ayaz Ali, while before the Chief Collector the recipient became the account of M/s Overseas International Cargo, said to be operated by the Appraising Officer; and the licensee's past record, which the notice did not mention, was relied upon to refuse leniency. The connected references show the same pattern. In three of them, the orders-in-original name the very goods declarations in respect of which the payments are said to have been made. The goods declarations were therefore known to the Collectorate when the notices were issued, and nothing explains their omission. We refer to these features not to decide which account is correct, which is not our function, but because they show why rule 102(3) insists that the allegations be set out. A licensee cannot be expected to meet a case whose content is neither disclosed to it nor settled.

22. Learned counsel for the applicant is right that a person who pays a bribe is unlikely to record, in the same message, the goods declarations in which favour is sought, and that the absence of a goods declaration number does not by itself defeat a charge under clause (k). That, however, goes to what must be proved, not to what must be notified. The Tribunal's finding is not only that no goods declaration was named; it is that the notices did not inform the licensees of the transfers and the communications on which the charge actually rested. The department had those particulars and nothing prevented it from setting them out. Rule 102(3) is satisfied when the licensee is informed of the case the department actually has against it; the unavailability of some other particular is no reason for withholding those which are available.
23. The Tribunal's conclusion that the notices did not meet the requirement of rule 102(3), and that the orders founded upon them could not stand, is therefore a conclusion of law correctly drawn from facts which the Tribunal was entitled to find. It is reinforced by the reliance placed in the orders below on matters which were never put to the licensees at all: the specific transfers, the account of M/s Overseas International Cargo and the licensees' past conduct. A finding against a person on a ground of which he had no notice is not one that rule 102(3) permits, and the guarantee of a fair trial and due process in the

determination of civil rights and obligations, in Article 10-A of the Constitution, points the same way.¹⁰ Question 1 is answered in the negative.

VII. ATTEMPT AND OUTCOME UNDER RULE 102(1)(k)

24. The Tribunal, however, went further. In paragraph 13 of each judgment it held that, under clause (k), there must be an *actus reus* “not only for getting favour but also the nature and extent of benefit secured”, and that unless “both the incidence of influence as well as consequent benefit drawn are actually established” the licensee could not be faulted. It also reasoned that, since goods declarations are assigned and disposed of by the automated system on a first in first out basis, it was not apparent what benefit could have been drawn. With respect, the text of the Rules does not support this reading. Clause (k) speaks of an “attempt by the licensee to influence the conduct of any employee” by bribery or by offering any special inducement or gift, and rule 101(m) forbids a licensee to “attempt to influence the conduct of any officer of customs” by any inducement, gift or favour. The breach lies in the attempt. It is complete when an inducement is offered or paid with the object of influencing an officer, whether or not the officer is in fact influenced, whether or not any benefit results, and whether or not the system of assessment left room for one. Loss of revenue is not an ingredient either. A licence to transact customs business rests on the integrity of the licensee’s dealings with the officers before whom it appears, and it is that integrity, and not the outcome of any particular assessment, which these provisions protect. We therefore agree with learned counsel for the applicant that an attempt to bribe or influence an officer is itself a ground for action under clause (k), and to the extent the impugned judgments hold otherwise we are unable to agree with them. Question 3 is answered in the affirmative.
25. This answer does not, however, alter the result. An attempt is no less an allegation of fact than a completed bribe, and it must be put to the licensee with the same particularity. The Tribunal’s conclusion on rule 102(3) does not depend on its view of clause (k), and it is sufficient by itself to sustain the orders.

VIII. THE ALLEGED ADMISSION AND THE ELECTRONIC MATERIAL

26. It was urged that the Tribunal disregarded an admission. The record does not disclose an admission of the kind suggested. In Eagle’s case, what the order-in-appeal records is counsel’s submission that Yasir Irfan “did not pay money to the AO or his front man to get any advantage”, together with the Chief Collector’s observation that it was not disputed that Yasir Irfan worked on behalf of the licensee. In the case of Eastern Agencies, the licensee accepted that it

¹⁰ Article 10-A of the Constitution: “For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”

had paid Rs.425,000 to M/s Overseas International Cargo, but explained the payment as transport charges paid on behalf of its clients. A statement relied upon as an admission must be read as a whole. Where its maker accepts a fact but explains it, the acceptance cannot be detached from the explanation and treated as an admission of guilt unless the explanation is shown, on evidence, to be untrue. Whether these payments were bribes or something else, and whether the persons who made them acted for the licensees, are questions of fact. The Tribunal did consider the transfers, including the one transfer shown to have been made by an employee, and its assessment of their weight is not open to review in this jurisdiction. In two of the connected references, the orders-in-original rely on voice notes in which a person on the licensee's side is said to have confirmed a payment. Whether the voice is that of the licensee or of someone acting for it is the very question of attribution which the licensee was entitled to meet, and material of this kind, never put to the licensee before the order was made, cannot be treated as an admission by it. More fundamentally, statements made in appeal, after the licences had been revoked, cannot supply the notice which rule 102(3) required before the revocation.

27. The same answer applies to the submission that the sender of the money was the driver of the customs agent, so that the link between the agent and the officer stands established. The Rules do make a licensee answerable for those who act on its behalf, as rule 98(9) shows. But whether a particular person acted on behalf of a licensee, and in what capacity, is itself a fact of which the licensee is entitled to notice. No such person was named in the notices; the employee, the representative and the driver appear only at later stages, and not consistently.
28. Question 4 concerns the Tribunal's view that the WhatsApp communications were not authenticated by a forensic report. Article 164 of the Qanun-e-Shahadat Order, 1984 permits the production of evidence that has become available because of modern devices or techniques.¹¹ Proceedings before a licensing authority are not governed by the Order in its full rigour, but its approach is a sound guide: electronic communications are not to be excluded merely because they are electronic, and no rule of law makes a forensic report an indispensable condition for acting upon them in every case. What fairness does require, where such material is made the basis for revoking a licence, is that it be disclosed to the licensee, that its provenance be shown, and that its attribution to the licensee, through identified persons, be established by cogent material. How that is to be done will depend on the case and on what is

¹¹ Article 164 of the Qanun-e-Shahadat Order, 1984: "In such cases as the Court may consider appropriate, the Court may allow to be produced any evidence that may have become available because of modern devices or techniques."

disputed. To the extent the impugned judgments may be read as laying down a forensic report as a precondition in law, we do not endorse that view. The Tribunal's real concern, however, was that the identities of the participants and the ownership of the numbers were unproved and that the material had never been put to the licensees, and that was an assessment of the evidence which the Tribunal was entitled to make.

29. Question 2, and the question in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 whether the respondents violated rule 102, ask in substance whether the evidence of gratification was irrefutable and whether a violation was made out. These are questions of fact, and the answer to Question 1 disposes of them. Once the notices were found not to satisfy rule 102(3), no finding of violation could validly be returned in those proceedings, and it is neither necessary nor appropriate for us to express any view on the strength of the material. For the same reason we need not decide the standard of proof canvassed before the Tribunal. It is enough to say that revocation, which deprives a licensee of its means of livelihood, calls for cogent material fairly put to it.

IX. THE NATURE OF THE LICENCE

30. We accept that a customs agent's licence is a conditional privilege. It is granted for a term, renewed on conditions, and liable to suspension or revocation for breach of the obligations in rule 101 or on any of the grounds in rule 102(1); it confers no vested right to continue in business irrespective of conduct. But the Rules which confer the privilege also prescribe how it may be withdrawn, and the requirement in rule 102(3) is a condition of the power of revocation.¹² That a licence is a privilege does not dispense with the conditions on which it may be taken away. The question to that effect in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 is answered accordingly.

X. THE DEPARTMENT'S CONCERN

31. Learned counsel for the applicant emphasised that these cases form part of a wider pattern in which customs agents, acting in concert with officers, secure favourable processing of goods declarations at the cost of the exchequer. We do not underestimate that concern. Corruption in assessment strikes at the integrity of the customs process, and the Rules equip the Licensing Authority with ample powers against a licensee who attempts to influence an officer, including the power of immediate suspension under rule 102(4). The answer to the concern lies in the exercise of those powers in the manner the Rules

¹² *Ashraf Forwarding Agents* [2015 PTD 1749], where this Court, setting aside the suspension of a customs agent's licence, directed that the licensee be confronted with the violations alleged and heard before any action; and *Docks (Pvt.) Ltd.* [2015 PTD 948], where it was held that the power of immediate suspension under rule 102(4) must be followed by a proper show cause notice within a reasonable time, failing which the principles of natural justice would be defeated.

prescribe. Proceedings that are properly framed and fairly conducted serve the department's own purpose better than proceedings which fail at the threshold.

32. It follows that the Tribunal's orders rest on the deficiency of the show cause notices and of the proceedings founded upon them; they are not a finding that the respondents did not commit the acts alleged. Nothing in this judgment shall preclude the Licensing Authority, if so advised, from initiating fresh proceedings against any of the respondents in accordance with law, by a notice that sets out the allegations with their particulars and discloses the material relied upon. Any such proceedings shall be decided on their own merits, uninfluenced by anything said in this judgment.

XI. THE ANSWERS TO THE QUESTIONS

33. The questions are answered as follows:

- Question 1: In the negative, against the applicant.
- Question 2: This is a question of fact, which does not arise for determination in this jurisdiction, and is not answered. The same applies to the question in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 whether the respondents violated rule 102, save that no finding of violation could validly be returned in proceedings founded upon show cause notices that did not satisfy rule 102(3).
- Question 3: In the affirmative, in favour of the applicant. Actual benefit, or outcome in specific goods declarations, is not an ingredient of rule 102(1)(k); an attempt suffices. This answer does not affect the Tribunal's conclusion on rule 102(3).
- Question 4: A forensic report is not, as a matter of law, an invariable precondition for acting upon electronic material, and to that extent the view of the Tribunal is not approved. The Tribunal's assessment of the reliability and attribution of the material before it is, however, a matter of fact which discloses no error of law.
- Licence: The question in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 whether a customs agent's licence is a conditional privilege is answered in the affirmative, with the qualification that the licence may be revoked only in conformity with rule 102(3).

XII. ORDER

34. These references are disposed of in the above terms. The judgments of the Tribunal, in so far as they set aside the show cause notices, the orders-in-original and the orders-in-appeal and restore the respondents' licences, are maintained, and shall stand modified only to the extent of our answers to Questions 3 and 4. Interim orders passed in these references, including the suspension of the impugned judgments, stand recalled. The liberty recorded in paragraph 32 is preserved.

35. The office shall place a signed copy of this judgment in each of the connected references.
36. Let a copy of this judgment be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, in terms of section 196(10) of the Customs Act, 1969.

J U D G E

J U D G E

Karachi,

Dated: 9th day of October 2026