

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Special Customs Reference Application No. 220 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For hearing of CMA No. 2763/25. 2. For hearing of main case. 3. For hearing of CMA No. 2764/25. <u>25.08.2026</u> Mr. Ghulam Mujtaba Sahito, advocate for the applicant.

Following questions of law had been proposed:-

- i. Whether, after the deletion of the second proviso to Section 157(2) of the Customs Act, 1969 through the Finance Act, 2022, the learned Customs Appellate Tribunal Karachi was justified in upholding the releasing of the vehicle (Acqua Car) which was exclusively carrying smuggled goods, despite the clear legislative intent to render such conveyances absolutely liable to confiscation without any discretion for release on redemption fine?
- ii. Whether, in view of Clause (b) to S.R.O. 499(I)/2009 dated 13.06.2009, which explicitly bars release of vehicles exclusively used for the transportation of smuggled goods, the authorities under Section 181 of the Customs Act, 1969 could lawfully exercise discretion to release such a vehicle on payment of redemption fine, thereby contravening the statutory mandate of absolute confiscation under Section 157 of the Customs Act, 1969 read with S.R.O. 499(1)/2009 dated 13.06.2009 and as amended from time to time?
- iii. Whether the Customs Appellate Tribunal has erred in law by disregarding the binding effect of the statutory framework under Section 157 of the Customs Act, 1969 and the express prohibitions contained in S.R.O. 499(1)/2009, thereby misconstruing the scope and extent of confiscation prescribed under the Customs Act, 1969?"

Learned counsel demonstrates that pursuant to order for the substituted service, service has been effected through publication and the relevant excerpt of the newspaper is on file.

Learned counsel states that this is no case of first impression as the said questions have already been decided in favour of the applicant department *inter alia* vide judgment of the Supreme Court in the case of *Muhammad Ishaq* reported as PTCL 2026 CL. 134. Learned counsel states that aforementioned judgment is squarely binding upon this bench, therefore, in *mutatis mutandis* application of the same, the said questions may be answered in favour of the applicant and against the department. Order accordingly. Reference application stands disposed of in the above terms.

A copy of this order 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(10) of the Customs Act, 1969.

Judge

Judge