ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 23 of 2012
SCRA 24 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For hearing of CMA No.3392/2017.
2. For hearing of main case.
3. For hearing of CMA No.837/2012.

16.11.2026

Ms. Fehmida Khanum, advocate for the applicant.
Mr. Pervaiz Ahmad Memon, advocate for the respondent.

Matter is pending since 2012 and per learned counsel for the respondent agitates settled question of law. Learned counsel places on record in para materia circumstances dated 14.03.2024 in SCRA 1581 of 2023 and connected matters, which reads as follows:

"**14.03.2024**

Mr. Khalid Mehmood Rajpar, Advocate for Applicant.

On the last date of hearing the following order was passed:-

> "1) Granted
>
> 2) Granted subject to all exceptions.
>
> 3 & 4) On perusal of the proposed questions, including Question No. 2, it appears that it has already been answered against the Applicant
>
> department in the case of Muhamad Saleem Bikiya[1] whereby it has been held that Anti-Dumping Duty is not a Customs Duty, therefore, how any short levy of the same can be made good in terms of Section 32 of the Customs Act, 1969. Counsel to come prepared as to why these Reference Applications have been preferred as once the controversy stands decided by this Court, it amounts to sheer wastage of Courts time and burdens the exchequer as well.
>
> To come up on 14.03.2024. Office shall place copy of this order in all connected files."

Today Counsel for the Applicant is not in position to controvert the fact that insofar as Question No. 2, which is the moot question in these Reference Applications, already stands decided against the department, whereby, it has been held that Anti-Dumping Duty per se is not a Customs Duty; and therefore, any short recovery of the same cannot be made good under Section 32 of the Customs Act, 1969.

In view of such position, Question No.2 i.e. Whether by virtue of statutory amendments in Section 32 and 179 of the Customs Act, 1969, through Finance Act, 2012 and 2014, read

[1] Per Munib Akhtar Jin Muhammad Saleem Bikiya & Others vs. Pakistan & Another reported as 2018 PTD

> with Section 202 of the Customs Act, 1969, the Customs Authorities are not empowered to recover short levied amount of Anti-dumping duty through the process of quasi-judicial proceedings? is answered against the Applicant and in favour of the Respondents and as a consequence thereof remaining questions are not required to be answered. All these Reference Applications are dismissed in Limine along with pending applications.
>
> Let copy of this order be sent to Customs Appellate Tribunal, Karachi, in terms of sub-section (5) of Section 196 of Customs Act, 1969. Office to place copy of this order in the connected Reference Applications as above.

Learned counsel states that the said order applies with all force to the present controversy therefore present reference may be dismissed. Learned counsel for the applicant makes no effort to controvert the aforesaid. Order accordingly.

A copy of this decision 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. Office is instructed to place copy hereof in the connected file.

Judge

Judge

Khuhro/PS