ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 798 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on office objection.
2. For hearing of main case.
3. For hearing of CMA No.4499/2022.

18.11.2026

Mr. Khalilullah Jakhro, advocate for the applicant.
Mr. Jahanzeb Balouch, advocate for the respondent.

Per learned counsel the questions before the Court were determined against the applicant-department inter alia by virtue of order dated 14.03.2024 in SCRA Nos.1581 to 1591 of 2023 which reads as follows:

> "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 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.

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[1] Per Munib Akhtar J in Muhammad Saleem Bikiya & Others vs Pakistan & Another reported as 2018 PTD 2026

Office to place copy of this order in the connected Reference Applications as above

Learned counsel further states that the above-mentioned judgment went before the hon'ble Supreme Court and the same was sustained vide order dated 12.05.2025 passed in Civil Petition No.224-K of 2024 contents whereof are reproduced herein below:

> "Yahya Afridi, CJ.- We have gone through the impugned order and note that the learned High Court was correct in appreciating the factual and legal aspects of the matter warranting no interference by this Court. This petition is, therefore, dismissed, and leave to appeal is refused."

In view thereof, learned counsel seeks that these reference applications may be dismissed as withdrawn. 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(5) of the Customs Act, 1969. Office to place a copy of this order in connected reference application.

Judge

Judge

Khuhro/PS