

IN THE HIGH COURT OF SINDH, KARACHI

Special Customs Reference Application No. 418 of 2019

*Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Mohammad Abdur Rhaman*

Applicant: Director, Directorate General I & I
(Customs), Karachi
Through Ms. Masooda Siraj,
Advocate.

Respondent: M/S. Ontex Pvt Limited and another
Through Mr. Taimoor Ahmed Qureshi,
Advocates.

Date of hearing: 22.01.2025

Date of Judgment: 22.01.2025

JUDGMENT

Muhammad Junaid Ghaffar, J: Through this Reference Application, the Applicant has impugned judgment dated 01.03.2019 passed in Customs Appeal Nos. K-307/2018 & 308/2018 by the Customs Appellate Tribunal, Bench-III, at Karachi, proposing the following questions of law:-

- (i) Whether the learned Appellate Tribunal's finding that are not supported by documentary evidence are to be deemed erroneous and without the force of law, which cannot withstand judicial scrutiny by this Honourable High Court?
- (ii) Whether in terms of Sub Section (3) of Section 194-C of the Customs Act, 1969, the learned Appellate Tribunal while sitting singly has the jurisdiction to decide appeal involving duty, taxes, penalty or fine exceeding 5 million rupees?
- (iii) Whether, keeping in view of the facts and circumstance of the case the learned Appellate Tribunal has erred in law to understand that the Respondent No.1 made an untrue declaration while filing goods declarations under Section 79(1) of the Customs Act, 1969, within the mis-chief of Section 32(1) & (2) of the Customs Act, 1969?

2. Heard learned Counsel for the parties and perused the record. Insofar as proposed question No.2 is concerned, the same appears to have been wrongly proposed because the Show Cause Notice clearly reflects that the alleged evaded amount of duty and taxes is less than Rs.5,000,000/- (Rupees Five Million), and therefore, the said question is not required to be answered.

3. Insofar as question No.3 is concerned, on perusal of order of the Tribunal, it clearly reflects that the matter in hand requires interpretation of two notifications as to whether the notifications could be given retrospective effect or not; therefore, it cannot be held that the declaration filed under Section 79(1) of the Customs Act, 1969 was untrue so as to attract Section 32 (ibid); therefore, this question is answered against the Applicant and in favour of the Respondent.

4. Insofar as question No.1 is concerned, it may be observed that it is not a question of law arising out of the order of the Tribunal, whereas no other question has been proposed. Accordingly, this Reference Application is hereby **dismissed**. Let a copy of this order be sent to Customs Appellate Tribunal, Karachi, in terms of sub-section (5) of Section 196 of Customs Act, 1969.

JUDGE

JUDGE

Ayaz P.S.