

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1919 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.5491/2023
- 2. For hearing of main case
- 3. For orders on CMA No.5492/2023

**02.10.2025**

Mr. Khalid Mehmood Rajpar, advocate for the applicant

The operative part of the impugned judgment is reproduced herein below :

“6. Arguments heard from both the sides and examined the case record. The case making agency (Respondent-3) the Directorate General, Intelligence and Investigation-Customs Karachi has forwarded the seizure report wherein the charge of mis-declaration of LED lights of above 60 volts in the garb of LED lights of less than 60 volts to unduly avail exemption of customs duty and sales tax under S. No. 24(2) of Part-1 of Fifth Schedule of the Customs Act, 1969 and Sixth Schedule of the Sales Tax Act, 1990 and clause (77) of Part-IV, Second Schedule to Income Tax Ordinance, 2001 aimed at evasion of duty and taxes.

7. On confronting the issue, the counsel for the appellant has primarily raised the question of jurisdiction of the Respondent No.3 (The Directorate General, Intelligence and Investigation-Customs, Karachi). He has placed the copy of SRO No.486(1)/2007 dated 09.06.2007 on record, on which the learned counsel argued that the Directorate of Customs Intelligence and Investigation has no lawful authority and jurisdiction to forward the instant seizure report in this case on dispute of exemption of goods. The learned counsel for the appellant has relied upon the recent judgment dated 03.10.2022 passed by the Honorable Supreme Court of Pakistan in the case of The Director Intelligence and Investigation, Lahore Vs. Khuwaja Muhammad Waseem in Civil petition no.896/L and 897/L of 2020, an operative part of which is reproduced below:-

"We enquired from the learned counsel for the petitioner whether the Collector of Customs has preferred a petition/appeal against the impugned judgment and the learned counsel was not able to answer the query. After the Tribunal had decided the matter against the Collector of Customs it was for the Collector to assail the same. With regard to the Directorate the Tribunal had simply stated that it has not been granted powers under section 32 of the Act, which is confirmed by Notification No. S.R.O. 486(1)/2007 dated 9 June 2007 (pages 98 and 99 of the paper book) ('the Notification). To such extent, the impugned decisions of the two forums cannot be faulted. It was correctly held that the Directorate was granted seizing powers under the Notification, but was not granted section 32 powers. Therefore, the Directorate is not an aggrieved party. If the Collector Customs has preferred a petition or an appeal is pending which impugns the same judgment the same will be considered on its own merits. Therefore, without making any observations with regard to merits of the case, leave to appeal is declined and, consequently, these petitions are dismissed".

8. Without prejudice to above and on merits, this case the Appellant qualify for exemption as under S. No. 24(2) Pat-I of Fifth Schedule of the Customs Act, 1969, Sixth Schedule of the Sales Tax Act, 1990 and clause (77) of Part-IV, Second Schedule to Income Tax Ordinance 2001.

9. From the above, I hereby conclude that in terms of SRO.486(1)/2007 dated 09.06.2007 read with the judgment of the Honorable Supreme Court of Pakistan as cited above, the Directorate of Customs Intelligence & Investigation-Customs has no lawful authority and jurisdiction to send the instant seizure report and invoke charge of misdeclaration in terms of Section 32 of the Customs Act, 1969. In this case, I am also further of the view that the Directorate of Customs Intelligence & Investigation-Customs have only seizing powers under SRO.486 ibid and hence they cannot

*exercise unbridled powers to probe into a exemption/classification dispute, which is not their domain under the Customs Act, 1969.*

*10. In consequent to the above, the impugned Orders-in-Original is declared to be illegal and set aside. The appeals are accepted with no order as to cost.*

*11. Judgment passed and announced accordingly”*

Per learned counsel an explanation was issued on 12.02.2016 whereby the exemption available to LEDs was qualified to for upto 60 volts only. Upon queried learned counsel admits that irrespective thereof the relevant provision in the schedule was never amended. Learned counsel also did not articulate any cavil to the observation in the statutory exemption cannot be countermanded by an interoffice correspondence.

We have perused the impugned judgment and observe that the issue has been discussed and deliberated and no ground would be set forth before us that the conclusion could be rested on the rationale relied upon. No question of law could be articulated before us to entertain this reference, therefore, the same is hereby dismissed in *limine*.

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

Judge

Judge

Amjad