

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1199 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.2847/2023
- 2. For hearing of main case
- 3. For orders on CMA No.2848/2023

03.11.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant along with Mr. Sanaullah, Director, I & I, Karachi

This matter has been pending in the docket since 2023 and not even notice had been issued herein. *Prima facie* the impugned judgment appeared to have been rested upon appreciation of evidence, hence, no case could be articulated for any question of law arising therefrom; learned tribunal being the last fact finding forum of the statutory hierarchy.

Upon being so confronted, learned counsel sought time on 13.10.2025 and again on 20.10.2025. Thereafter, on the last date following order was passed :

“27.10.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant

This matter is pending since 2023 without any progress. The order-in-original had concluded as follows :

“In view of above, it is ordered that the impugned seized vehicle may be released to its lawful owner after verification of documents from Nazarat. Process of verification should be completed within (30) thirty days from the date of this order failing which the vehicle Toyota Surf Jeep, Registration No.BF-5543 (Karachi), Color Black, Chassis No. VZN215-0004828 (as per FSL Report/Physical Appearance), Engine No. Not traceable, Model 2003 shall automatically stand released to its lawful owner. Allegations levelled in the show cause notice No. Coll. Adj-1/04/2019/19-20 (M-2672/DCI/ Seiz/2019) dated 15.07.2019 are not established and the show cause notice is disposed off accordingly in above terms.

The department challenged the same in appeal which was dismissed. The concurrent judgments against the department have been assailed in reference jurisdiction and this matter has clogged the docket for the last two years. On both previous dates time was sought to assist as prima facie the only question have been agitated by the learned counsel were that of fact, not amenable for adjudication in reference jurisdiction. The questions pleaded for determination also demonstrate that the same have already been conclusively decided in the light of recent judgment of Supreme Court passed on 03.03.2025 in Civil Appeals 1088, 1231 to 1236 of 2013 (*Intelligence Officer, Directorate of Intelligence & Investigation FBR and others vs. Abdul Karim*). Under such circumstances, we are constrained to direct the applicant, Director, Director General, Intelligence and Investigation (Customs) to be present in court on the next date to assist.

To come up on 03.11.2025”

Today, Mr. Sanaullah (Director I&I) is present and was called upon to assist as to why the reference had been preferred in the first instance. He articulated no cavil to the observation that the questions of law proposed were argumentative in nature and / or sought de novo agitation of facts, however, insisted on pressing question number 2. Upon being confronted as to how such a question could be entertained in view of the judgment of the Supreme Court dated 03.03.2025 in *Intelligence Officer Directorate of Intelligence & Investigation FBR & Others vs. Abdul Karim (Civil Appeals 1231 to 1236 of 2013)*, he remained unable to assist.

Therefore, we are of the considered view that the impugned judgment is rested upon evidence and no reappreciation thereof is merited in reference jurisdiction. The applicant has failed to articulate any question of law meriting invocation of reference jurisdiction. Consequently, this reference is 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.

It is noted that the docket is clogged by reference applications filed by the department *inter alia* agitating settled question of law and / or being frivolous in nature. This is one such example. The interests of revenue or adjudication are subverted by perpetuation of such proceedings. We appreciate that perhaps it is not within a departmental counsel's ambit to curb such filing or perpetuation, however, it is disappointing to observe that even senior officers are unwilling to be part of the remedy. Therefore, while showing restraint and eschewing the imposition of costs upon the applicant, we direct that a copy hereof be sent by the office directly to the Attorney General Pakistan, Secretary Revenue and Chairman FBR at Islamabad.

Judge

Judge

Amjad