

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 960 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of CMA No.4303/2024.
3. For hearing of main case.
4. For hearing of CMA No.4304/2024.

05.11.2025

Mr. Khalid Rajpar, advocate for the applicant.

Mr. Talha Javed, advocate files Vakalatnama on behalf of the respondent, same is taken on record. On 08.10.2025, following order was passed:

"08.10.2025

Mr. Khalid Mahmood Rajpar, advocate alongwith Mr. Nauman Tashfeen, Additional Director, Post Clearance Audit

Mr. Khaid Mahmood Rajjpar, advocate files Vakalatnama on behalf of the applicant, which is taken on record. Per learned counsel, the matter is squarely covered by the judgment of the Supreme Court dated 05.09.025 rendered in the case of Director of Post Audit Clearance v. Nestle Pakistan Limited (Civil Petition NNo.70-K of 2023) and connected matters.

Admit reference application; notice to the respondent; to come up on 22.10.2025. In the meanwhile, operation of the impugned judgment dated 15.08.2024 passed in Customs Appeal No.K-111/2018 is suspended."

On 22.10.2025, following order was passed:

"22.10.2025

Mr. Khalid Mehmoood Rajpar, advocate for the applicant

Mr. Tasawar Ali Hashmi, advocate states that service has been effected upon the respondent, as he undertakes to file power, and seeks time. At his request, adjourned to 05.11.2025. Interim order passed earlier to continue till the next date."

Today Mr. Talha Javed, advocate merely holding brief on behalf of respondent's counsel and seeks time. Learned counsel for the applicant refers to paragraph 11 of the impugned judgment, which reads as follows:

"11. In order to answer this question, we are inclined to refer to the judgment of hon'ble Sindh High Court Nestle Pakistan Limited vs. Federal Board of Revenue and others (reported as 2023 PTD 527) herein the hon'ble Court has adequately deliberated upon

this issue and given its categorical ruling. We, under Article 201 of the Constitution of Pakistan, are bound by the dictum of law settled by the hon'ble Sindh High Court in the aforementioned case as under:-

“28. In view hereof, these petitions were allowed, in Court at the conclusion of the hearing, in terms of our short order dated 15.11.2022, operative constituent whereof is reproduced herein below:

“For reasons to be recorded later on these petitions are allowed to the extent that the officers of Collectorate of Customs (Adjudication) have no jurisdiction to recover or adjudicate any short levy / recovery of sales tax and income tax once the imported consignments have been assessed to duty and taxes in terms of section 80 of the Customs Act, 1969 and are released / cleared from Customs. The impugned show cause notices, only to this extent are held to be issued without lawful authority and jurisdiction and are hereby set-aside; however, the proceedings, if any, in respect of short levied sales tax and income tax can be initiated by the Officers of Inland Revenue Department, strictly in accordance with law. Office to place copy of this order in the connected petitions as above.”

Learned counsel states that the judgment relied upon has been subsequently over turned by the of the Supreme Court dated 05.09.2025 rendered in the case of Director of Post Audit Clearance v. Nestle Pakistan Limited (Civil Petition NNo.70-K of 2023)and in the very instance of this respondent.

The question of law proposed for determination were as follows:

“I. Whether or not the Honourable Customs Appellate Tribunal erred in law to conclude that the officers of customs have no jurisdiction to recover or adjudicate any short levy or recovery of duty and taxes once the imported consignments have been released & cleared by customs authorities especially in light of the pronouncement of the Honourable Supreme Court in the case of Collector of Customs Port Muhammad Bin Qasim, Karachi v. MIA Corporation (Pvt.) Ltd. Islamabad Reported as 2023 SCMR 2052?

II. Whether or not the Honourable Tribunal erred in law while relying on the judgment of the Honourable Sindh High Court at Karachi in the case of Nestle Pakistan Limited v. Federal Board of Revenue reported as 2023 PTD 527 without taking into consideration the order dated 21.03.20224 passed by the Honourable Supreme Court of Pakistan in CPLA 78-K/2024 and connected matters which while allowed issuance of show cause notice barred the department from finalizing the same?”

Since Supreme Court has already decided the matter, therefore, in mutatis mutandis application thereof, the questions proposed for determination are decided in favour of the applicant department and against the respondent. Consequently, reference application is allowed and impugned judgment is set aside.

A copy of this decision may also 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

Khuhro/PS