

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRAs 467 & 470 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.2537/2019
- 2. For orders on office objections No.6 & 11
- 3. For orders on CMA No.2538/2019
- 4. For hearing of main case
- 5. For orders on CMA No.2538/2019

01.12.2025

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Learned counsel states that these reference applications are squarely covered against the department vide Division Bench order of this Court dated 17.02.2021 passed in SCRAs 448 of 2019 and connected matters. The operative part of the order is reproduced herein below :

4. Perusal of the aforesaid finding reflects that earlier the respective Collectorates had cleared the subject goods by extending the benefit of the above exemption, and after releasing of the same it was alleged that the said exemption is not available. It appears that such proceedings were initiated pursuant to some letter of FBR dated 12.02.2016, wherein, it was clarified that the exemption would only be available where the voltage of LED lights does not exceed 60 Watts. Responding to this the Tribunal has been pleased to observe that such clarification or finding of FBR in respect of an exemption available under the Act comes from nowhere, as FBR has no role to play in such matter. It has been further observed that FBR has no authority either to enhance or restrict an exemption. It has been further observed that in any case this letter of FBR could not be applied retrospectively on the Respondents goods which were already cleared after accepting the claim of exemption. We are fully in agreement with such finding in the given facts and circumstances of the case in hand. It is further reflected that the above clarification which was adversarial, was later on withdrawn on 28.11.2017. It is also a matter of record that insofar as the exemption in question is concerned, there was no such restriction as to the limit of watts or voltage of the LED lights in question, whereas, the related department i.e. National Energy Conservation Centre and Ministry of Water and Power had also supported the case of the respondents. Not only this even otherwise, the relevant entry in the 5th Schedule provides "Following items for promotion of renewable energy technologies or for conservation of energy:, whereas the Applicant is of the view that the lights in question were never meant for promotion of renewable energy; however, has lost sight of the fact that after this the words "OR" has been used which here in the given facts and circumstances is to be read as "and"; hence, applies to all items for promotion of conservation of energy, which makes it irrelevant that as to whether what is the capacity in watts or voltage; or for that matter whether it is to be used in solar or wind energy; or in AC current or DC current.

Based on these facts the Tribunal has come to the conclusion that the Applicant(s) had no case to rely upon an interpretation given by FBR inasmuch as the same was against the very Statute and cannot be accepted, and therefore the entire case as set-up by the Applicant department including allegations of mis-declaration within the contemplation of s.32 of the Act has no basis. We do not see any reason to differ from the conclusion so drawn by the Tribunal; hence we are of the view that there appears to be no justifiable cause with the Applicants) to

challenge such finding of the Tribunal, which, in the given facts and circumstances of the case, is in line with the settled principles of law, and therefore, apparently no question of law arises out of the order of the Tribunal.

5. In view of such position, we are not inclined to entertain these Reference Applications as no substantial questions of law arise out of the impugned order, and therefore, they are dismissed in limine. Let copy of this Order be sent to Customs Appellate Tribunal in terms of sub-section (5) of Section 196 of Customs Act, 1969.

Learned counsel states that the aforementioned edict is binding upon this Bench, therefore, in *mutatis mutandis* application thereof these reference applications may be dismissed. 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 is instructed to place copy of this order in connected matter.

Judge

Judge

Amjad