

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 348 of 2022  
SCRA 349 of 2022  
SCRA 350 of 2022  
SCRA 351 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objections No.2, 5, 6, 7, 10 & 14.
2. For orders on CMA No.2043/2022.
3. For hearing of main case.
4. For orders on CMA No.2044/2022.

**20.11.2025**

Mr. Irfan Mir Halepota, advocate for the applicant.

Operative part of the impugned judgment reads as follows:

“4. I have carefully examined the record of the case and heard the arguments put forth by the Appellants and Respondents and the same have been duly considered. The legal issues involved in this case can be enumerated as follows:-

- (i) Whether a VR can applied retrospectively and applicable on goods imported prior to its issuance
- (ii) Whether the goods released provisionally under section 81 of the Customs Act, 1969 after securing the differential amount can be reassessed on the basis of value re-determined through a fresh VR.

5. As regards issue (i) above no legal instrument in shape of statutory provision, SRO or Valuation Ruling can be made applicable retrospectively unless its retrospective effect is mandated in the law itself. This well-established legal principle is equally valid and squarely covers the situation depicted in the above issue. I have the honor to get benefit of the case law Sadia Jabbar vs. Federation of Pakistan and others [PTCL 2014 CL 537] wherein this matter of retrospective effect of the Valuation Ruling has been discussed vide para 21 thereof. The relevant part is reproduced below:

“Two further points must be made Firstly, it is clear that the section 25A cannot have retrospective effect, i.e., a valuation ruling cannot be issued in relation to goods actually imported, nor can it be applied to imported goods unless it was issued before such importation. As noted above, what section 25A enables is a predetermination of the customs value. Such a determination can only apply in relation to goods not actually imported at the time that the determination is issued. If there is no valuation ruling when the goods are actually imported, it is only section 25 which is applicable. Secondly, a valuation ruling issued under section 25A can, in our view, only apply for a certain period and no more.”

6. Therefore in view of above there is no doubt that VR cannot applied retrospectively. Hence the action of the Respondent department by applying the VR for that time span in which VR was not in the field is patently illegal and contrary to well established legal principles of allowing retrospectively coupled with case law cited above. This retrospective operation of VR is also contrary to

provisions of Rule 107(a) of Customs Valuation Rules. For these reasons I am of the candid view that application of VR with retrospective is illegal and ultravires.

7. That as regards issue at (ii) above it is clear that any assessment which is made contrary to provisions of law shall hold the legal ground. There is no dispute on the decided principle that assessment of any goods has to be made according to provisions of section 25 or 25A read with Customs Valuation Rules as the case may be.

8. The record reflects that goods were initially assessed under section 81 of the Customs Act, 1969 by securing the differential amount. That as per law the provisional determination under section 81 had to be converted into final determination within stipulated period as provide under the law. The “provisional assessment” (the differential amount secured) had either to be adjusted in case of any fresh evidence or refunded to the imported if no fresh evidence was produced. However department had not provided any “fresh evidence” for the import made on 001.04.2020 and considered the impugned VR as fresh evidence which not only contrary to the legal provisions but also defied the various case laws on the issue. Therefore it is held that in case of any assessment made under section 81 the subsequent issuance of VR does not constitute any “fresh evidence” as required under section 81(3)(4) for finalization of provisional determination cases. According for issue (ii) I hold that assessment made by Respondent on basis of VR is not legal being contrary to the law.

9. That cumulative effect of above discussion is that the assessment made by officer of Respondent No.2 on the basis of fresh ruling is held illegal and accordingly the instant appeals are accepted.”

It is observed that the impugned judgment has been rested upon binding judgment of Division Bench of the High Court. Under such circumstances, counsel is queried as to whether the said judgment is also binding on this court and he responds in affirmative. He was further queried under such circumstances the reference jurisdiction is warranted and responds in negative. In view hereof, these reference applications are 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. Office is instructed to place copy hereof in the connected files.

Judge

Judge