

**IN THE HIGH COURT OF SINDH AT KARACHI**  
**Special Customs Reference Application No.148 of 2025**

Date	Order with Signature of Judge
------	-------------------------------

Fresh Case

1. For orders on CMA No.1864/2025
2. For hearing of main case
3. For orders on CMA No.1865/2025

**01.04.2026**

Mr. Shabieh Hyder, Advocate for the applicant

The operative part of the impugned judgment reads as follows:

"08. I have dilated upon the issue which pertains to the question of whether the subject vehicle falls under Clause 1(b) of SRO 499(I)/2009 considering the record of the case. The learned Collector (Appeals) has held that the matter did not come within the ambit of Clause (b) of said SRO, therefore, the vehicle is required to be released to its lawful owner after proper verification and lab testing before its release. On the other hand, the appellants department asserts that the car was carrying contraband / offending goods for exclusive transportation.

09. It is imperative to cite below the clause 1(b) of SRO 499(1)/2009:-

*Clause 1(b):*

*"S.R.O.499(I)/2009. In exercise of the powers conferred by section 181 of the Customs Act, 1969 (IV of 1969), and in supersession of its Notification No. S.R.O. 487(I)/2007 dated 9th June, 2007, the Federal Board of Revenue is pleased to direct that no option shall be given to pay fine in lieu of confiscation in respect of the following goods or classes of goods, namely: -*

*(b) lawfully registered conveyance including packages and HQ Containers found carrying smuggled goods in false cavities or being used exclusively or wholly for transportation of offending goods under clause (s) of section 2 of the Customs Act, 1969 (IV of 1969);"*

10. The record of the case suggests that the respondent has failed to prove beyond any shadow of a doubt that the subject vehicle was not used exclusively or wholly for the transportation of contraband goods viz Indian Gutka Z-21 and betel nuts (notified item under SRO 566(1)/2005). No legal documents to establish the legal possession of the goods were ever produced before this forum including GD/Sales Tax Invoice, Phytosanitary Certificate, etc. Therefore, the burden of proof under Section 187 of the Customs Act, 1969, has not been discharged by the respondent at all. This fact confirms the goods to be smuggled within the contemplation of Section 2(s) of the Act *ibid*, hence any vehicle carrying such goods is hit by Clause 1(b) of SRO as cited above.

11. With these observations, it can safely be concluded that the provisions of Serial 1(b) are attracted in this case as rightly argued by the Appellant department.

12. Based on the above observations, I allow this appeal by holding that the subject vehicle is required to be confiscated outright. The Impugned Order-in-Appeal is modified to the above extent concerning the subject Honda Rebon Oriol Car, bearing Reg No. ANN-799.”

Prima facie, the findings contained in the impugned judgment are rested on appreciation of evidence and a consonant conclusion appears to have been reached. Learned counsel remains unable to displace or distinguish the same and or suggests that the rationale could not lead to the said conclusion. The counsel has argued with respect to the adequacy of evidence, however, the said matter is for final determination before the Tribunal and not before this Court in reference jurisdiction. Even otherwise the issue of use of the vehicle for carrying smuggled goods has been conclusively addressed by the Supreme Court, *inter alia*, in the recent judgment in the case of Director, Intelligence & Investigation (Customs) FBR, Peshawar vs. Muhammad Ishaq (Civil Petition Nos.2853 and 2854 of 2025). Be that as it may, since no question of law was articulated before this Court to be adjudicated in reference jurisdiction, therefore, this reference application is dismissed in limine.

A copy of this decision may also be sent under the seal of this Court and signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

JUDGE

JUDGE

Asif