

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 301, 302, 303, 304 & 305 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of main case
2. For hearing of CMA No.2284/2017

13.04.2026

Mr. Muhammad Khalil Dogar, advocate for the applicant

Following questions of law had been proposed for determination.

- Whether keeping in view the facts and circumstances of the case and the provision of section 19(3) of the Act and SRO 499(I)/2009 dated 13.06.2009, the learned Appellate Tribunal has not erred in law to allow release of the smuggled vehicles on the point of vested right?
- Whether the facility of the Amnesty Scheme in the absence of compliance of condition i.e. seizure / confiscation of the vehicles and payment of duty / taxes within the stipulated period, can be extended at this belated stage?
- Whether in the light of facts and circumstances of the case, particularly where the respondent has relied upon the fabricated documents and mis-statements, the Appellate Tribunal has not erred in law to hold that the respondent has fulfilled the conditions for availing the Amnesty Scheme?
- Whether in the presence of irrefutable facts and circumstances of the case the Appellate Tribunal through mis-reading and non-reading of record, has not erred in law to hold that the respondent has created vested right by complying with requirements of the Amnesty Scheme by voluntarily presented the vehicles?
- Whether the learned Appellate Tribunal has not erred in law by not considering the vital aspect of the case that apart from not presenting the vehicle for seizure / confiscation, as per conditions of the Amnesty Scheme the respondent (Malik Bashir) was neither appeared before the appropriate officer of the Customs not before the Appellate Authorities and even the appeals / petitions were not filed by the above named respondent?

Notwithstanding the foregoing, learned counsel demonstrates that five appeals have been decided vide common judgment, which is rendered in a perfunctory manner and devoid of any independent reasoning and / or deliberation and cannot be said to be a speaking order. Learned counsel states that the same is not befitting the last fact-finding forum in the statutory hierarchy.

Pursuant to order for substituted service, learned counsel states that service has been effected through publication. He places relevant excerpt of the newspaper on file which is taken on record.

The Appellate Tribunal is the last fact-finding forum in the statutory hierarchy; therefore, it is incumbent upon it to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed has been emphasized by the Supreme Court in the judgment reported as 2019 SCMR 1726. This High Court has consistently maintained that the Appellate Tribunal is required to proffer independent reasons and findings, and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on the judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgments have also maintained that if the impugned order is discrepant in the manner as aforesaid, the correct course is to remand the matter for adjudication afresh. Reliance is placed on the judgment dated 10.12.2024 in ITRA 343 of 2024.

We are of the considered view that the impugned judgment could not be considered to be a speaking order and is *prima facie* devoid of any independent reasoning etc. The entire judgment comprises essentially of reproduction and is crowned with a dissonant conclusion. Hence, no case is set forth to sustain the impugned judgments, which are hereby *set aside* and the matters are remanded back to the Appellate Tribunal for adjudication afresh in accordance with law.

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. Office is instructed to place copy of this order in connected matters.

Judge

Judge