

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 1468 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of CMA No.3677/2023
3. For hearing of main case
4. For hearing of CMA No.3678/2023

15.04.2026

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Following questions of law had been proposed for determination :

- i. Whether the Tribunal acted without lawful authority by extending the benefit of lawful purchase in the absence of lawful/legal import between the seized goods and the import documents, contrary to the scheme of the Customs Act, 1969?
- ii. Whether Charges of Show Cause established coupled with detailed reasons given by adjudicating officers through Order In Original, the same have been totally ignored by Tribunal & exceeded the limits of its appellate jurisdiction by granting relief despite of the statutory requirements of the Customs Act, 1969, thereby substituting statutory compliance with equitable considerations?
- iii. Whether the interpretation placed by the Appellate Tribunal on Sections 2(s), 16 and 187 of the Customs Act, 1969 defeats the object and purpose of the confiscatory provisions contained in Section 156(1) (89) of the Act 1969? Covered through Judgement of Honorable SC in Civil Petitions No.4334 to 4363 of 20245 (Collector of Customs v/s Muhammad Rizwan & others)
- iv. Whether a non-speaking order passed by the Appellate Tribunal, without recording reasons on material statutory requirements, can legally sustain in view of the mandatory requirement of reasoned adjudication under Section 24-A of the General Clauses Act, 1897?"

Learned counsel states that respondent was continually avoiding service, therefore, orders for substituted service were obtained. He states that pursuant thereto service has been effected through publication and the relevant excerpt of the newspaper is available on file.

Learned counsel presses question No.4 and seeks to demonstrate that the impugned judgment is prima facie non-speaking in nature. He states that even the other questions proposed have not been addressed by the learned Tribunal in their proper perspective, hence, the impugned judgment is prima facie slipshod in nature.

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 judgment, which is hereby *set aside* and the matter is 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.

Judge

Judge

Amjad