

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 196 70 207 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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Fresh case.

1. For orders on CMA No. 1660/26.
2. For hearing of main case.
3. For orders on CMA No. 1661/26.

30.09.2026

Mr. Zain A. Jatoi, Advocate

These references have been filed against an interim order; contents whereof are reproduced herein below:

“Dated: 01.07.2026

Advocate Zain Ali Jatoi alongwith Advocate Mustafa Mamdani for the Appellant M/s Usama Mithani, Karachi.

Advocate Zakir alongwith SPO Hashim for the Respondent M/s MCC Appraisement East-Karachi.

It is mainly the contention of the learned counsel for the Appellant that the consignment needs to be segregated properly before alleging that all the goods declared as prime quantity Galvalume Coils are Electronic Tin Plate. He highlighted that the Respondent MCC has itself admitted that there are layers of Galvalume Coils being the declared goods, while the misdeclared goods were conceded under the said layers. There is therefore admitted part of the declared goods which needs to be segregated and deducted from alleged goods.

However the respondent has vehemently opposed the prayers for segregation and stressed upon following points:-

I. The examination has revealed a classic modus operandi of concealment: the inner bulk of the coils consisted of high-value Secondary Quality Electrolytic Tin Plate, while only the outer layers were disguised as Prime 5 Quality Galvalume Steel to deceive Customs authorities.

II. The request for segregation by the Appellants, is an admission of their offence and confirms that the Appellant have committed misdeclaration. The importer's belated plea for re-examination bears all the hallmarks of a dilatory tactic, especially in light of the conclusive findings from the joint examination reports and Customs Laboratory Test, both of which irrefutably proves that misdeclaration has been committed by the Appellants. The upper layers of Prime Quality Galvalume Steel were merely used to cover up Secondary Quality Electrolytic Tin Plates (ETP) beneath them. These can at the best be streated as essential packing and therefore according to establish procedure essential packing is also treated as the part & parcel of the actual goods which are ETP in the instant cases.

III. Concealment of high value and high duty Secondary Quality Electrolytic Tin Plates (ETP) beneath the low value and duty layers of Prime Quality Galvalume Steel is a modus operandi to deprive the national exchequer from its legitimate revenue, as the whole consignments are of Secondary. Quality Electrolytic Tin Plates (SQ-FTP). The request of the Appellants in merely an attempt to gain time nod eyewash.'

We have given such consideration to both sides. Indeed the goods have already gone through detailed examination. It is prima facie, a fact that there are only few layers of declared prime quality Galvalume sheets and all the rest are ETP Coils. Therefore their appears no need for segregation as it is not expected to alter the material facts. The case is ripe for main arguments on the basis of the documents and case record.

The application/prayers of the Appellant M/s Usama Mithani on the subject matter of segregation/re-examination is disposed of. The Appeals are fixed for main arguments on 05.08.2026.”

Prima facie the interim order disposes of requests for re-examination etc. and fixes the supervening appeals for main / final arguments. These references have been filed assailing the interim order and interim relief is also sought.

On the last date of hearing the learned counsel was confronted as to maintainability hereof *inter alia* as no final order had been passed and no case was apparent to delay adjudication of the main appeals on the pretext of the interim orders being adjudicated by the high court. The only argument articulated, on the last date and today, was variation in the verbiage of section 196 of the Customs Act 1969.

It remains settled law that terminal orders in the fiscal jurisdiction may be subject to challenge in reference jurisdiction¹. Even in exercise of Constitutional jurisdiction, interference in interim orders of the tribunal has been deprecated by this Court².

If the articulation of the learned counsel is sanctioned by this Divisional Bench then the precedent manifested would be that each and every order of the tribunal would become subject to reference jurisdiction. To illustrate the observation, even adjournment orders etc. may become recognized as being amenable to challenge in reference jurisdiction. No case is made out before us that the same is / was the outcome / inference of the legislative variation, hence, no case is set forth to entertain these references.

Therefore, these reference applications are dismissed in *limine*. The office may place a copy hereof in each connected file. A copy may also 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(10) of the Customs Act, 1969.

Judge

Judge

¹ Collector of Customs, Model Customs Collectorate, Port Muhammad Bin Qasim, Karachi vs. Pacific Oil Mills (Pvt.) Limited & Another reported as 2023 PTD 1268; in the analogous context of rectification applications. Reliance was also placed Commissioner of Income Tax Vs. Ateed Riaz reported as 2002 PTD 570.

² Shahid Ahmed vs. Federation of Pakistan reported as 2024 PTD 736; Shamim Ahmed vs. Federation of Pakistan reported as 2024 PTD 736.