IN THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Appeal No. 6 of 2026

Appellant	:	Muhammad Atiq through Mr. Muhammad Nadeem Qureshi, advocate for the appellant assisted by M/s. Muhammad Salman Khan, Shahroze Nadeem and Ms. Sadia Ashraf advocates
Respondent	:	The State through Mr. Khalid Mehmood Rajpar, Special Prosecutor Customs
Date of Hearing	:	14.04.2026
Date of judgment	:	02.06.2026

JUDGMENT

Omar Sial, J. This is an appeal seeking quashment of proceedings emanating from FIR No. 217/2019 dated 19.09.2019. The appellant's request for quashing before the Special Judge (Customs, Taxation & Anti-Smuggling – II), Karachi was rejected vide Order dated 25.11.2025.

2. Briefly, the facts relevant for present purposes are as follows.

3. Muhammad Atiq had allegedly made a misdeclaration and imported new auto parts under the garb of iron and steel scrap along with serviceable auto parts against GD No. KAPE-HC-31313 dated 30.08.2019. After the goods were cleared through the red channel and the applicable duties paid, the consignment was intercepted for re-examination by the Directorate General (Inland Revenue and Investigation) on 15.09.2019. Upon re-examination, a large quantity of new, old and used auto parts was recovered, the import whereof was in contravention of the Import Policy Order, 2016 (Appendix C). The goods were seized and Order-in-Original dated 03.09.2019

was passed whereby the goods were ordered to be released upon payment of fine and penalty.

4. Thereafter, the consignment was again intercepted and re-examined by the R&D Branch of the Appraisement, East Wharf, Karachi at the gate-out stage, whereby further contraventions of the Import Policy were reported. Resultantly, a second Order-in-Original dated 14.09.2019 was passed by the Deputy Collector (Adjudication), Custom Collectorate, which too allowed release of the goods upon payment of the prescribed fine and penalty.

5. Before the goods were released against payment of the prescribed penalties and fines, the Directorate General (Inland Revenue and Investigation) registered the FIR dated 19.09.2019 under sections 2(s), 16, 32(1) & (2), 32A, 79, 80 and 178 of the Customs Act, 1969 read with section 3(1) of the Imports and Exports (Control) Act, 1950, further read with sections 3, 6, 33 and 34 of the Sales Tax Act, 1990, punishable under clauses (8), (89), (14), (14A) and (43) of section 156(1) of the Customs Act, 1969, section 3(3) of the Imports and Exports (Control) Act, 1950, and section 148 of the Income Tax Ordinance, 2001.

6. Despite payment of the prescribed penalties and fines, the DG (I&I) refused to release the subject consignment. Such refusal was assailed by the appellant through CP No. D-5946/2019. Numerous orders were passed confronting the DG (I&I) regarding its continued detention of the consignment. Vide Order dated 23.11.2020, the Director General (I&I) was directed to appear on 24.11.2020 and explain the authority under which his department continued to retain the goods.

7. On 24.11.2020, the DG (I&I) appeared and the following order was passed:

> “While confronted with our observations in the aforesaid order, they have not been able to assist

> us as to under what authority of law the consignment in question was detained after passing of second Order-in-Original dated 14.09.2019 and a third show cause notice was issued. In the circumstances, respondents are directed to immediately release the goods as adjudicated vide Order-in-Original dated 14.09.2019 and if the amount so determined under the Order-in-Original including any fine or penalty has been paid then the goods shall be released immediately and compliance report be placed on the record before the next date."

8. At the time of passing of the Order dated 24.11.2020, the DG (I&I) did not inform the High Court that the goods were allegedly prohibited items and were required for purposes of the FIR already lodged. Accordingly, on the representations made by the DG (I&I), the High Court ordered release of the goods, which were thereafter released between 24.11.2020 and 01.12.2020. The importer/appellant has now approached this Court seeking quashing of the said FIR.

9. I have heard Mr. Nadeem Qureshi as well as Mr. Khalid Rajpar. My observations and findings are as follows.

10. At the outset, I note from the wisdom of the Hon'ble Supreme Court of Pakistan in *Directorate of Intelligence and Investigation v. Taj International (Pvt) Limited* ("**Taj International**"), **PLD 2025 SC 633** that criminal prosecutions in tax matters are not standalone offences, but are closely tied to recovery of the assessed tax liability through the coercive arm of law. To quote verbatim:

> "…criminalization under the Act [Sales Tax Act, 1990] goes beyond the pale of retribution and deterrence and appears to be principally focused on recovery of tax."

11. In the instant matter, that purpose already stands served, as assessments were made pursuant to which fines and penalties were levied and the goods released in 2020 by Customs/DG (I&I) without any demur or protest. As noted above, the Directorate failed to provide any cogent reason — or

even disclose the existence of the FIR — when confronted by the High Court in CP No. D-5946/2019 to justify the authority under which the goods continued to be detained.

12. A perusal of the Orders-in-Original reveals that although the goods were imported in contravention of the Import Policy Order, 2016 (Appendix C), section 181 of the Customs Act, 1969 read with SRO 499(I)/2009 dated 13.06.2009 permitted the importer to redeem the offending items upon payment of the applicable fine, penalty and additional duties/taxes. This option was extended to the importer, who elected to avail the same.

13. The registration of the FIR after levy of the applicable taxes, penalties, fines and duties appears to be an afterthought on the part of the prosecuting agency. Its abject apathy is further evident from the fact that the final challan has yet to be submitted before the trial court, whereas the interim challan was submitted as far back as 04.02.2020.

14. This Court has observed a growing number of cases where, due to lack of coordination between different government directorates, importers find themselves trapped in a quagmire of red bureaucratic tape, whereby one branch clears the goods while another disputes the very same clearance. The burden of such internal disarray is inevitably borne by the importers. To condone such maladministration would mean that a sword of Damocles would perpetually hang over every importer until actual physical delivery of the consignment and its removal from the port. Such uncertainty within the importer community would have devastating and far-reaching consequences for the already fragile economy of the country.

15. Furthermore, I note that the appellant has also been charged under provisions relating to sales tax and the Income Tax Ordinance, 2001. The Supreme Court in Taj International held that in tax matters, particularly those concerning sales tax,

criminal prosecution without prior determination of tax liability through assessment proceedings is unlawful.

16. More recently, the Supreme Court in Criminal Petitions 120/2026, Arshad Aziz Abbasi v. The Special Judge, Customs, Taxation and Anti-Smuggling-I applied the same reasoning to income tax matters and the AMLA, 2010, and held:

> "Under the facts and circumstances of the instant case, it can be safely concluded that criminal proceedings have been initiated against the petitioners without determination of tax liability through process of adjudication and assessment of tax under the Act of 1990 and the Ordinance, which act, besides being violative of the Constitutional guarantee as per Article 10A of the Constitution and Principles of Natural Justice, as no opportunity of being heard has been provided to the petitioners while resorting to initiation of criminal proceedings in the shape of registration of FIR… in total disregard of the explicit judgement of this Court rendered in the case of Taj International…"

17. There is nothing on the record to suggest that Muhammad Atiq was confronted with any tax liability pursuant to the Sales Tax Act, 1990 or the Income Tax Ordinance, 2001, let alone that any such liability was adjudicated upon. To this extent as well, in the absence of civil adjudication, the charges framed under the said laws are in direct negation of Taj International and are liable to be quashed.

18. Furthermore, adjudication of the civil liability of Muhammad Atiq under the Customs Act, 1969 also remains inconclusive due to the pendency of the show cause notice dated 11.11.2019. The Customs Act, 1969, as held by the Hon'ble Supreme Court of Pakistan in Directorate of Post Clearance Audit through DG, FBR Islamabad v. Nestle Pakistan Limited, Islamabad, 2025 SCMR 1974 constitutes the third fiscal statute — alongside the Sales Tax Act, 1990 and the Income Tax Ordinance, 2001 — governing the levy, collection and recovery of import-stage fiscal imports in Pakistan.

19. By parity of reasoning, I am persuaded to hold that since the principle laid down in Taj International (pertaining to sales tax) was subsequently extended to income tax matters in Arshad Aziz Abbasi, the same reasoning must equally apply to proceedings under the Customs Act, 1969, which forms the third limb of the statutory framework governing recovery of duties and taxes.

20. I am also not persuaded by the submissions advanced by the learned Special Prosecutor Customs for the following reasons. Firstly, the Order dated 24.11.2020 passed in CP No. D-5946/2019 was never challenged and has attained finality. Secondly, the revised assessment still remains pending adjudication. Lastly, no effort was made to seize the goods, as a consequence whereof the goods no longer constitute case property. At trial, it would be essential for the prosecution to produce the goods, which, after a lapse of six years, would now be next to impossible.

21. If the goods indeed pertained to an offence, nothing prevented the authorities from seizing them despite the order of the Sindh High Court referred to above. When confronted with this aspect, the learned Special Prosecutor Customs was unable to provide any satisfactory answer.

22. Given the above legal and factual position, there appears to be no possibility of a conviction. It would, therefore, be just and proper to quash the proceedings in question. Order accordingly.

Judge