

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**C.P. No.D-1729 of 2005**

---

Date \_\_\_\_\_ Order with signature(s) of Judge(s) \_\_\_\_\_

---

**Present:**

**Muhammad Ali Mazhar, J.**  
**Abdul Maalik Gaddi, J.**

FACO Trading ..... Petitioner  
Versus  
Federation of Pakistan  
& 2 others ..... Respondents

**16<sup>th</sup> February, 2017.**

M/s. Ghulam Ahmed Khan & Fehmida Khatoon, Advocates for the Petitioner.  
Mr. Muhammad Ilyas Ahsan, Law Officer, Customs.  
Mr. Asim Mansoor Khan, DAG.

-\*\_\*\_\*\_\*-

**Muhammad Ali Mazhar, J.** The petitioner has approached this court for declaration that the respondents have no lawful authority to determine value of imported goods on the basis of advice of any person or trade body. Further declaration have been sought that value of Ceramic Tiles determined by the respondent No.2 on the basis of advice by association is in violation of Section 25 of the Customs Act, and in view thereof declared transaction values should have been accepted by the authorities. The directions have been sought against the respondent to refund excess amount recovered on the basis of illegally determined value.

2. The Law Officer, Customs submits that value was determined in terms of Section 25 and the entire mechanism is provided in same Section, which has been applied. Learned counsel for the petitioner has attached five good declarations (G.Ds). The Law Officer further

argued that against the disputed valuation, the appeal could have been filed under Section 193 of the Customs Act but no such appeal was filed by the petitioner. The learned counsel for the petitioner submits that no order was received to the petitioner for filing the appeal under Section 193. However, after arguing at some length, learned counsel for the petitioner confined himself to the provisional assessment of Good Declaration bearing No.KAPR HC 81016 dated 12.12.2005 available at page 49 and argued that this provisional assessment was to be finalized in terms of Section 81 within six (06) months' period but it is still pending and since statutory period has been lapsed, therefore, the petitioner is entitled for refund of excess value paid. He further argued that he will be satisfied, if some directions may be issued to the Customs Authorities in relation to the good declaration for the refund so he will not press this petition for the remainder. The Law Officer submits that under Section 81 though time is specified to finalize the assessment within six (06) months, but at this stage, he has no such information whether the assessment has been finalized or not. However, he agreed that if the assessment has not been finalized within statutory period and final determination has not been made within the period specified in sub-Section (2), then further proceedings shall be taken in accordance with Sub-section (4) of Section 81 of the Customs Act and refund, if any, found due shall be made in accordance with law. This exercise shall be completed within 30 days with intimation to the petitioner. The petition is disposed of.

Judge

Judge