

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Special Customs Reference Application No.388 of 2018

Collector of Customs
Versus
M/s Union Auto Corporation & another

Date	Order with signature of Judge
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1. For orders on CMA 3161/18
2. For hearing of main case
3. For orders on CMA 3162/18

Dated: 05.10.2021

Mr. Muhammad Bilal Bhatti for applicant.

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Heard.

Aggrieved of the judgment of the Appellate Tribunal, applicant has filed instant Special Customs Reference Application, primarily on a proposed question whether declaration of the goods made by respondent was not appropriate as the subject goods fell in a different PCT Heading at the time of clearance. The Appellate Tribunal was pleased to observe in paragraph 8 of the impugned judgment that the respondent was able to establish by placing numerous goods declarations of the identical goods having been already classified and cleared by the customs under PCT-Heading 8483.3090.

Learned counsel for applicant is not able to demonstrate from the record as to what evidence is available for classifying the goods in PCT Heading 8483.3010 for which an additional/enhanced duty than the one paid by the respondent could be recovered. The proposition is dependent on concrete evidence, which has not been placed in any form whatsoever. Besides, the applicant's/department's counsel had no

answer that on numerous occasions identical goods under different goods declarations were cleared by the customs officials under claimed PCT Heading i.e. 8483.3090 levying a duty of 20% in terms of Valuation Ruling No.661 of 2014. The Appellate Tribunal also asked the applicant department to produce evidential data of classification of particular item imported by the respondent and as to whether such goods were ever cleared by the customs officials under a PCT Heading other than the one disclosed by the respondent but they failed to demonstrate such facts.

Thus, the only question that at the best could arise out of the impugned judgment is, whether any mis-declaration was made by the respondent while goods declaration was filed, classifying the goods to have fallen under Heading 8483.3090? In view of the foregoing such question is answered in negative i.e. in favour of the respondent and against the applicant and in consequence thereof this Special Customs Reference Application is dismissed along with listed application.

A copy of the order be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal Inland Revenue Karachi in terms of Section 196(5) of Customs Act, 1969.

Judge

Judge