

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

S.C.R.A No.418 of 2018

The Collector of Customs
Versus
Abdul Ghafoor S/o Noor Muhammad

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| DATE | ORDER WITH SIGNATURE OF JUDGE(S). |
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**Present: - Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Mahmood A. Khan.**

Fresh Case

1. For order on CMA No.1910/2021 (U/A).
2. For order on CMA No.3436/2018 (Exemption)
3. For hearing of Main Case.
4. For order on CMA No.3437/2018 (Stay).

18.10.2021

Mr. Pervez Ahmed Memon, Advocate for the applicant.

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Muhammad Shafi Siddiqui, J.- Subject matter of this Reference is a seizure notice followed by a show-cause notice dated 02.11.2015 as a number of foreign brands LED TV sets were recovered and seized on the count that those were smuggled. The examination was conducted and it revealed that there were 42 pieces of LED TVs 32”, Samsung brand made in Egypt and 48 pieces of LED TVs 40”, Samsung brand made in Egypt. The goods were recovered and taken into possession, subsequently the original delivery orders dated 11.09.2015 were produced that the goods were purchased through auction. The adjudicating officer vide order-in-original dated 03.03.2016 held the charges against the respondent and being aggrieved of it the appellant/respondent filed Appeal before the Tribunal whereby the goods were ordered to be released. The only discrepancy on the basis of which the case was being argued by the department was that in the auction letter the description of the goods was disclosed as LCD as against the seizure memo which identified the goods as LED.

We have heard learned counsel for the applicant and perused the material available on the record.

The department did not dispute the auction report dated 26.08.2015 and the delivery of the goods which includes 42 pieces of Samsung TVs 32” and 48 pieces of Samsung LCD TVs 40”, rest of the

nomenclature was also not debated and disputed by the department except that the auction goods were in fact LCD not LED. The Samsung brand of 32” and 40” of Egypt origin with rest of the nomenclature as disclosed in the auction report and delivery order is not denied.

The show-cause notice also does not demonstrate that these were brought within the territory of Pakistan through routes other than notified routes or that the duties were not paid. On a minor discrepancy showing the goods as LCD instead of LED nothing would turn and hence is of no consequence when rest of the nomenclatures of the seized goods were same. The auction report of 11.09.2015, which is in fact a delivery order as well, disclosed auction date as 26.08.2015 and the seizure report is of the following month i.e 18.09.2015. We do not find any reason to interfere with the order of Tribunal in terms whereof goods were ordered to be released to the respondent. The proposed question for convenience could be as under:-

Whether the goods seized by the department are covered by the auction report dated 11.09.2015 bearing auction date being 26.08.2015 and hence not liable to be seized?

The above question is answered in affirmative in favour of the respondent and against the applicant department and consequently Reference Application is dismissed alongwith pending applications.

Copy of this order be sent to the Appellate Tribunal in terms of Section 196(5) of the Customs Act, 1969.

JUDGE

JUDGE

Ayaz Gul