

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

Special Customs Reference Application 343 of 2017

Date

Order with Signature of Judge(s)

1. For orders on CMA No.2384/2017.
2. For hearing of main case.

**02.09.2021**

Mr. Muhammad Khalil Dogar, Advocate for the applicant.

1. Exemption granted subject to all just legal exceptions.
2. The applicant has impugned the order dated 20.03.2017, rendered by the learned Customs Appellate Tribunal at Karachi ("Impugned Order") primarily on the premise that the remission of the fine / penalty upon the respondent herein was contrary to the law.

The matter pertained to classification of goods and it was demonstrated before the tribunal that even if the divergent classification was accepted there would be no revenue implication. The learned Tribunal upheld the classification per declaration, on the basis of evidence, and directed the release of the consignment upon payment of duties and taxes. It was also recorded that the department / present applicant had failed to establish any culpability in respect of the present respondent through cogent documentary evidence or otherwise. In conclusion, the fine / penalty imposed upon the present respondent was annulled.

The applicant has proposed various questions of law which we, respectfully, consider extraneous and dissonant to the Impugned Order. The learned Appellate Tribunal has already appraised the evidence and concluded that in fact it was the departmental view / action that was dissonant with the law, hence, no fine / penalty was liable to be imposed upon the present respondent. No exception to such findings have been identified before us. It is trite law that the learned Tribunal is final arbitrator of facts<sup>1</sup> and that factual controversies are not amenable before the reference jurisdiction of this court.

In view hereof, we are of the considered view that the applicant has failed to raise any question of law arising out of the Impugned Order meriting the consideration of this court, therefore, the present reference is hereby dismissed *in limine*.

A copy of this decision may 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(5) of the Customs Act, 1969.

JUDGE

JUDGE

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<sup>1</sup> Per *Munib Akhtar J* in *Collector of Customs vs. Mazhar ul Islam* reported as 2011 PTD 2577.