

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

Special Customs Reference Applications No.639 to 673 of 2014

Collector of Customs  
Versus  
M/s Fort Tiles

Date	Order with signature of Judge
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1. For orders on office objection a/w reply of the advocate.
2. For hearing of main case

**Dated: 16.09.2021**

Mr. Iqbal M. Khurram for applicant.

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Heard.

Office objection about reference being barred by time is pending since 2014 and no satisfactory answer is given as to how the impugned order was received or served, as required under section 196 of Customs Act, 1969. No envelop is appended. In the absence of discharge of such burden, it (the order) is presumed to have been served in normal course. Impugned order is dated 02.07.2014 and the reference is filed on 22.10.2014 and the time required is 90 days in terms of Section 196 of Customs Act, 1969. It should have been filed on 01.10.2014 and even if two or three days of service are excluded, it is time barred.

Notwithstanding above we enquired about facts of the case.

These references are pending since 2014 and no question, as proposed by the applicant, arises out of the decision/order of the Tribunal.

Primarily the Tribunal in relation to Issue No.1 emphasized that the raid under section 163 of Customs Act, 1969 has to be made by an officer strictly in accordance with the requirements after undertaking all

prerequisites including but not limited to search warrants in terms of Section 162 of the ibid Act from the concerned Magistrate on an application moved by the officer stating grounds of his belief that the goods are liable for confiscation or the documents or things which in his opinion shall be used in evidence in the proceedings, being concealed. Such requirements, as held could be dispensed under section 163 of Customs Act, 1969 which could empower Assistant Collector of Customs or any other officer having power to make search without warrants if he was satisfied that there was danger of removal of goods and that such reasons are to be recorded in black and white, if the process of obtaining search warrants is to be avoided.

Record reflects that search was conducted on the premises of clearing agent without recourse of the aforesaid provisions. When the search itself was declared as unlawful, entire edifice is bound to collapse. Ironically none of the questions in this regard are proposed and even the statement of facts, available at page 7 of the file, does not demonstrate any grievance to the extent of such declaration that the raid is/was in violation of Section 162 and 163 of Customs Act, 1969. Entire edifice is dependent upon Issue No.1 and hence there is nothing to interfere and intervene in the conclusion drawn by the Appellate Tribunal. Subject reference applications as such are dismissed.

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**