

IN THE HIGH COURT OF SINDH, KARACHI

Special Customs Reference Applications Nos. 183 / 2016

Date Order with signature of Judge

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Agha Faisal

Applicant(s): The Collector of Customs,
Through Additional Collector of Customs
MCC Appraisement (West),
Custom House, Karachi
Through Mr. M. Khalil Dogar, Advocate.

Respondents: M/s. A. G. Packages co.,

Date of hearing: 06.04.2021.

Date of Order: 06.04.2021.

ORDER

Muhammad Junaid Ghaffar, J: Through this Reference Application, the Applicant Department has impugned order dated 15.12.2015 passed in Customs Appeal No. K-538/2015 by the Customs Appellate Tribunal and has proposed the various Questions of Law; however, at the very outset we have confronted the learned Counsel for Applicant Department as to proposing these Questions of Law inasmuch as the Tribunal through its order has only remanded the matter and to this learned Counsel submits that appropriate orders may be passed. The Relevant findings of the Tribunal in the order reads as under:-

"8. That the Appellant is imported the Misalliances items declared the correct PCT Heading 4010.3190 as per Customs Valuation Ruling No. 359/2011 dated 26.07.2011 issued by the Director Valuation regarding description "V-Belts", is covered under PCT Heading 4010.3190 and fixed the Customs value for US\$ 1.80 per Kg. and data available under PCT Heading 4010.3190. Whereas the Respondent could not accepted the declared PCT Heading and change the under PCT Heading 4010.3210. In case of dispute the matter is required to be referred to PCT Classification Committee Custom House or Federal Board of Revenue or World Customs organization for

correct classification for decision and issuance of public notice for further guidance / implementation contrary to above mentioned legal course of action. Furthermore, no penal action could be invoked against the importer under clause 14 of the Section 156(1) ibid read with SRO 499(I)/2009 dated 13.06.2009, whereas, the importer other importers are imported the same and identical goods within the 90 days, the Respondent himself change the description and classification receive the huge amounts i.e. duty and taxes forcibly, it is illegal & against the law.

After going through the above findings of the Tribunal, we do not see that any Question of Law is arising out of the impugned order as the matter has only been remanded and even it has been observed that if the Classification Committee decides the matter against the Respondent, appropriate adjudication proceedings be initiated afresh.

In the circumstances, this Reference Application is misconceived is hereby dismissed. Let copy of this Order be sent to Appellate Tribunal Customs in terms of sub-section (5) of Section 196 of Customs Act, 1969.

J U D G E

J U D G E

Arshad