

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
SCRA 218 of 2019
CP D 6703 of 2018

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For hearing of CMA No.1592/2019
2. For hearing of main case.

24.01.2023.

Mr. Umar Akhund, advocate for the petitioner in CP D 6703 of 2018

Dr. Shahab Imam, advocate for the applicant in SCRA No.218 of 2019

Mr. Khalid Rajpar, advocate for respondent in SCRA No.218 of 2019

Mr. Mehmood Alam Rizvi advocate for respondents No.3 & 4 in CP D 6703 of 2018

Mr. Ashiq Ali Anwar Rana advocate for respondent No.2 in CP D 6703 of 2018

It appears that in the connected Constitution Petition an order was passed on 02.04.2019, whereby some Facts Finding Committee was constituted as to the stance of the petitioner in respect of the Goods in question, including the contention that the goods are not smuggled goods as alleged. It further appears, prior to this, by way of interim arrangement, certain goods were ordered to be released against guarantees subject to final outcome of the dispute. Subsequently, Facts Finding Committee's report dated 08.05.2019 has been placed on record and on 24.09.2020, this court had passed the following order:-

"Learned counsel for the petitioner files statement dated 24.09.2020 along with annexures, which is taken on record, copy thereof has been supplied to the learned counsel for respondent, however, submits that in view of compliance report by the Facts Finding Committee the allegation of the respondents to the effect that the paper imported by the petitioners was smuggled stands falsified, therefore, requests that instant matter may be remanded back to the Customs Appellate Tribunal to re-hear the appeal and decide the same keeping in view the report as referred to hereinabove, preferably, within a period of four weeks from the date of receipt of this order. Learned counsel for respondent No.2 and learned Asstt. Attorney General do not oppose disposal of instant petition and reference application in the above terms, whereas, learned counsel holding brief for Mr. Mehmood Alam Rizvi,

learned counsel for respondent requests for short adjournment to seek instructions in this regard as the latter is busy before Circuit Court Hyderabad.

To come up on 01.10.2020”

Today, no serious objection has been raised by any of the Respondents Counsel as to the above order. In view of such position, since the order of the Customs Tribunal impugned in the connected Reference Application has been passed prior to the Fact Finding Committee’s report, whereas, in view of the above order parties have consented for remand of the same to the Tribunal for its decision afresh pursuant to the Facts Finding Committee’s report; Accordingly, by consent, the Reference Application is disposed of by setting aside the judgment dated 04.03.2019 passed in Customs Appeal No.K-57/2019, whereas, petition also stands disposed of. The Tribunal is directed to decide the matter so remanded, preferably within a period of 90 days from today in accordance with law and after providing opportunity of hearing to the parties and keeping in consideration the Fact Finding Committee’s report, as placed on record, and noted above in the orders dated 02.04.2019 & 24.09.2020. The guarantees furnished as above shall be subject to final outcome of the Tribunals order.

Let copy of this Order be sent to Appellate Tribunal Customs in terms of sub-section (5) of Section 196 of Customs Act, 1969. Office to place copy of this order in connected matter as above

J U D G E

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Amjad/PA