

ORDER SHEET

**IN THE HIGH COURT OF SINDH, KARACHI**

Special Customs Reference Application ("SCRA") No. 86 of 2006

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Date

Order with signature of Judge

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Hearing of case

1. For orders on CMA No. 2705 of 2022
2. For regular hearing.

**01.02.2023**

Ms. Dilkhurram Shaheen, advocate for the applicant  
Mr. Agha Zafar Ahmed, advocate for respondent

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Through this reference application the applicant has impugned order dated 15.02.2006 passed in Customs Appeal No.K-684/2003, by then Customs, Excise and Sales Tax Appellate Tribunal Bench-I Karachi, and on 09.02.2007 this Reference Application was admitted on question No.1. The order dated 09.02.2007 and question No.1 reads as under :-

**"Order dated 09.02.2007**

*During the course of their respective arguments, learned counsel have brought to our notice two judgments of his Court, one available at page 93 of the Court file and the other reported as 2007 PTD 234, wherein somewhat different views have been taken as regards the question of jurisdiction of the Customs Authorities in exercise of their jurisdiction. To examine this controversy in detail, we admit this reference application to regular hearing only to answer the question No.1.*

**Question No.1.**

*Whether the respondent No.1 has seriously erred while concluding the impugned Order-in-Appeal holding that the action of appellant was illegal, unsustainable and without jurisdiction in terms of CGO-15/89 and in terms of three judgments of this honourable Court passed on the said CGO; whereas this honourable Court while disposing off HCA No.306 and 207 of 2002 (filed in the instant case) vide order dated 29.07.2003 has been pleased to hold that in terms of Customs Rules 2001 and in view of the dictum laid down in M/s. Baba Khan's case (Supra) by the honourable Supreme Court, the Customs Authorities at the point of entry are fully competent to take cognizance of a contravention?"*

We have heard both the learned counsel and perused the record.

After perusal of the judgment dated 29.07.2003 passed in High Court Appeal Nos. 306 & 307 of 2002 as referred to in the above order it appears that

the controversy now already stands decided in favour of the applicant and against the respondent, therefore, the question No.1 is answered in favour of the applicant and against the respondent. The impugned order dated 15.02.2006, passed by the Customs, Excise and Sales Tax Appellate Tribunal Bench-I Karachi, stands set aside.

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

Amjad/PA