

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
SCRA No. 101 of 2022
CP D 4923 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

1. For hearing of CMA No.757/2022
2. For regular hearing.

18.01.2023.

Mr. Muhammad Khalil Dogar, advocate for the applicant

Mr. Sardar Muhammad Ishque advocate for the respondent in SCRA and for the petitioner in CP D 4923 of 2022

Mr. Muhammad Idrees Jakhrani advocate holds brief for Ms. Anila Jamil, advocate for respondent

Qazi Ayazuddin, Assistant Attorney General
 Mr. G.M. Bhutto, Assistant Attorney General

Through this reference application the applicant has proposed various questions against the order dated 20.12.2021 passed in Customs Appeal No.K-7144/2021, however, the Tribunal has decided the matter only on one legal question that whether the order in original dated 17.03.2021 was passed within the limitation period of Section 179 of the Customs Act, 1969. It appears that during earlier hearing the learned Division Bench of this Court had made a query to the applicant's counsel regarding the grant of any extension and thereafter on 13.01.2023, statement has been filed on behalf of the applicant along with certain documents which reflects that not only the extension was granted by the Collector Adjudication in terms of Section 179 subsection 3 of the Customs Act, 1969, but also the respondent had availed certain adjournments and an adjournment letter dated 16.02.2021 has also been placed on record. While confronted learned counsel for the respondent concedes that to determination the actual facts including the specific dates and the time period required to be taken into account pursuant to section proviso in

subsection (3) of section 179 of the Customs Act, 1969, the matter has to be decided by the trial court. From perusal of the impugned order it appears that such facts have not been attended and therefore this Court is not in a position to answer any legal question.

In view of the above and with consent of both the parties the impugned order is set aside and the matter is remanded to the Tribunal to decide the matter including the determination of the facts as reflected in the statement placed before this court on 13.01.2023, as well as, the adjournment application of the respondent.

The Tribunal is expected to carry out such exercise and decide the matter within sixty (60) days from today. At this juncture respondent's counsel submits that they have no objection if the Tribunal has decided the matter on merits as well. Order accordingly.

In view of the above, the petition stands disposed of. 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

J U D G E

Amjad/PA