

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
S.C.R.A. No. 40 / 2019

Date

Order with signature of Judge

FRESH CASE.

- 1) For orders on office objection No. 1 & 4.
- 2) For orders on CMA No. 365/2019.
- 3) For hearing of main case.
- 4) For orders on CMA No. 366/2019.

21.08.2023.

Mr. M. Iqbal Khurram, Advocate for Applicant.

Through this Reference Application, the Applicant Department has impugned Judgment dated 19.07.2018 passed by the Customs Appellate Tribunal in Customs Karachi in Customs Appeal No. K-1803 of 2016 proposing the following Questions of Law:-

- A) Whether under the facts and circumstances of the case, while setting aside the impugned Order-in-Revision No. 217 of 2016 the learned Appellate Tribunal has erred in law and misinterpreted in particular Section 25-D and 25A(3) of Customs Act, 1969 read with relevant Rules and Notification issued for pre-determination of Customs value?
- B) While learned Appellate Tribunal erred in law and facts while setting aside the impugned Order and failed to appreciate that vide impugned order the Director General in exercise of powers conferred under Section 25-D read with SRO 495(I)/2007 dated 09.06.2007 being a specialized revisional forum, rightly enhanced the value of Mosquito Coil & Aerosol Insecticide Spray and thereby rectifying the mistake / error apparent from perusal of record and proceedings of the forum below?
- C) Whether under the facts and circumstances of the case, the learned Appellate Tribunal erred in law while passing impugned order and completely misinterpreted Section 25A(3) and 25D of the Customs Act, 1969 read with SRO 495(I)/2007 dated 09.06.2007 whereby, the Director General being special forum and having technical expertise has power under Section 25A(3) of Customs Act, 1969 for purpose of valuation fixation?
- D) Whether learned Appellate Tribunal erred in law failed to appreciate that the impugned order in revision, whereby the Director General Customs Valuation has revised the customs values determined by the Director Customs Valuation vide Valuation Ruling No. 863/2016 dated 05.05.2016 was well within four corner of law in particular with powers conferred under Section 25D & 25A(3) of the Customs Act, 1969 read with SRO 495(I)/2007 dated 09.06.2007?
- E) Whether under the facts and circumstances of the case, the learned Appellate Tribunal has not erred in law to determine the Customs values as "fixation of value" as the concept of "fixation of value" no more exists in the Customs Act,

1969, Customs values are being determined under Section 25 read with Section 25A of the Customs Act, 1969?

- F) Whether the learned Appellate Tribunal can indulge in selective reading of the order of the judicial forums, and non-reading of the record available in the instant case, and ignore the most vital part of it to utter detriment of revenue and have forced out in interpretation to the benefit of an individual?"

On perusal of the above, it appears that only questions B, C & D are questions of law, whereas, all these questions already stands answered against the Department and in favour of the Importers by this Court in the case reported as **Director General Valuation Vs. Al-Amin Cera (2019 PTD 301)**.

In view of the above, all these questions are answered against the Applicant Department. As a consequence thereof, this Reference Application is dismissed **in limine**.

Let copy of this order be sent to Customs Appellate Tribunal, Karachi in terms of sub-section (5) of Section 196 of the Customs Act, 1969.

J U D G E

J U D G E

Arshad/