

IN THE HIGH COURT OF SINDH, KARACHI

Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Mohammad Abdul Rehman

1.	Spl. Cus. Ref. A. 817/2017	Collector of Customs VS Home Life
2.	Spl. Cus. Ref. A. 818/2017	Collector of Customs VS Home Life
3.	Spl. Cus. Ref. A. 826/2017	Collector of Customs MCC VS MAW & Co.
4.	Spl. Cus. Ref. A. 827/2017	Collector of Customs VS MAW & Others
5.	Spl. Cus. Ref. A. 828/2017	Collector of Customs VS MAW & Others
6.	Spl. Cus. Ref. A. 829/2017	Collector of Customs VS MAW & Others
7.	Spl. Cus. Ref. A. 830/2017	Collector of Customs VS MAW & Others
8.	Spl. Cus. Ref. A. 831/2017	Collector of Customs VS MAW & Others
9.	Spl. Cus. Ref. A. 832/2017	Collector of Customs VS MSW & Co.
10.	Spl. Cus. Ref. A. 833/2017	Collector of Customs VS MSW & Others
11.	Spl. Cus. Ref. A. 834/2017	Collector of Customs VS MSW & Others
12.	Spl. Cus. Ref. A. 835/2017	Collector of Customs VS MSW & Others
13.	Spl. Cus. Ref. A. 836/2017	Collector of Customs VS MSW & Others
14.	Spl. Cus. Ref. A. 837/2017	Collector of Customs VS MSW & others
15.	Spl. Cus. Ref. A. 838/2017	Collector of Customs VS MSW & Others
16.	Spl. Cus. Ref. A. 839/2017	Collector of Customs VS MSW & Others

For the Applicants:

The Collector of Customs, MCC
PMBQ, Karachi
Through Ms. Masooda Siraj,
Advocate along with Mr. Javed
Hussain, Advocate and Tofique
Ahmed Shaikh, A.C. law.

For the Respondents:

Home Life and MAW & Co.
Through Mr. Aqeel Ahmed Khan,
Advocate.

Date of hearing:

06.08.2024

Date of Order:

06.08.2024.

ORDER

Muhammad Junaid Ghaffar, J: Through these Reference Applications, the Applicant department has impugned a common judgment dated 05.06.2017 passed in Customs Appeal Nos. 231 to 240 of 2016 and other connected matters passed by the Customs Appellate Tribunal, Karachi proposing various Questions of law.

2. Heard learned Counsel for the parties and perused the record. The relevant finding of the Tribunal in the impugned judgment reads as under:-

“08. Record has been perused and arguments putforth are duly considered. It is observed that the instant appeal impugns action of the respondents taken in assessing their tiles in violation and without adhering to the relevant provision of Section 25 of the Customs Act, 1969. Record shows that this Tribunal has passed two exhaustive Judgments on identical facts and points of law in case of the appellant and as such the action taken by the respondent has been found ultra vires and not founded lawfully. In view of these facts before us we have reasons to conclude that this appeal has substance and merit. As such the impugned Order is not lawfully firm, hence the same is set-aside on the strength of identical Judgments of this Tribunal mentioned in the preceding paras. The respondent had also failed to apprise this Tribunal, despite explicit orders given on 09.05.2017, during the final hearing, about the fate of this Tribunal's identical Judgments in C. A. Nos. K-05 to 15/2013 dated 08.12.2014 and C. A. Nos. K-1075 to 1109/2015 dated 23.11.2015.”

3. Today, learned Counsel appearing on behalf of the Applicant department submits that in the earlier round, the Tribunal's judgment in Customs Appeal Nos. K-1075 to 1109 of 2015 dated 23.11.2015 has been set aside by this Court in the case of ***The Collector of Customs v Mian Azam Waheed***

(2022 PTD 956). She has further argued that the said judgment was impugned by the private Respondents before the Honourable Supreme Court and the judgment of this Court has been maintained in the case of ***Mian Azam Waheed and 2 others v. The Collector of Customs through Additional Collector of Customs, Karachi (2023 SCMR 1247)***. When confronted Respondent's Counsel has tried to distinguish the judgments as above by arguing that the facts of instant case are distinguishable; however, on perusal of the Tribunal's judgment, it reflects that the Tribunal has not given any finding as to the contention of the Respondent's Counsel and has merely relied upon its earlier judgment passed in Custom Appeal No.1075 of 2015 dated 23.11.2015, which now stands set aside by this Court and affirmed by the Honourable Supreme Court.

4. In view of such position, the impugned judgment of the Tribunal dated 05.06.2017 is hereby set-aside and all these Reference Applications are allowed for the reasons so assigned in the judgment passed by this Court in the case of ***Collector of Customs (Supra)*** and affirmed by the Honourable Supreme Court in the case of ***Mian Azam Waheed (supra)***. 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 shall place copy of this order in connected files.

J U D G E

J U D G E

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