

IN THE HIGH COURT OF SINDH, KARACHI

Special Customs Reference Application ("SCRA") Nos. 883 to 894 & 995 to 1002 of 2024

Date

Order with signature of Judge

**Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Mohammad Abdur Rahman**

**Applicant in all SCRA's : The Collector of Customs (SAPT), Karachi
Through Mr. Sardar Zafar Hussain, Advocate.**

**Respondents in all SCRA's : M/s. Idrees Steel Co., Karachi.
M/s. Sama Trade, Karachi; and
M/s. Diamond Steel, Karachi
Through Mr. Aqeel Ahmed Khan, Advocate.**

Date of Hearing : 21.01.2025

Date of Judgment : 21.01.2025

J U D G M E N T

Muhammad Junaid Ghaffar, J: These Reference Applications have impugned two separate judgments dated 09.09.2024 and 18.10.2024 passed in various appeals filed by the Appellant before the Customs Appellate Tribunal. In essence, the judgments are almost same and identical, as apparently the paragraphs in the earlier judgment dated 09.09.2024 have been copied and pasted in the subsequent judgment dated 18.10.2024 barring a few minor differences. Therefore, all these Reference Applications are being decided through this common judgment.

2. Heard and perused the record. The precise facts as available on record are that the Applicant assessed the Goods Declaration of the Respondents from time to time, by placing reliance on some data available with the department. The said data was based on a Valuation Ruling bearing No.1720/2022 dated 22.12.2022. It is a matter of record that the said Valuation Ruling was impugned by various importers in terms of Section 25-D of the Customs Act, 1969 by way of a Revision Application, which was dismissed and against which, the Appeal(s) of the importers were decided by the Tribunal by setting aside the said

Valuation Ruling. The department being aggrieved with such order of the Tribunal has filed Reference Application(s) before this Court under Section 196 of the Act, wherein, ad-interim order(s) has been passed on 8.11.2023, and the judgment of the Tribunal has also been suspended. The said Reference Application(s)¹ are still pending before this Court. During pendency of said Reference Application(s) and after the judgment of the Tribunal, the Applicant department has assessed the Goods Declaration based on data as above instead of Valuation Ruling in question. The said assessment orders were impugned by the Respondents before the Collector of Customs (Appeals) under Section 193 of the Act, which have been allowed, and the department being aggrieved filed further appeals before the Tribunal and the said appeals have been dismissed through impugned orders.

3. On perusal of the orders passed by the Collector of Customs (Appeals) as well as the Tribunal, it reflects that both the forums below have primarily decided the appeals on the basis of an earlier judgment of the Tribunal dated 24.7.2023 passed in Appeal No.K-842 of 2023 & other connected matters, whereby, the Valuation Ruling in question i.e. 1720/2022, dated 22.12.2022 has been set aside. Unfortunately, both the forums below have failed to appreciate the fact that the said order of the Tribunal is now subjudice before this Court, wherein the said judgment has been suspended and propriety demanded that they ought to have shown restraint in passing any final order till such time the pending Reference Applications are decided. The forums below have ignored this aspect that the Tribunal's judgment is under suspension and if the Reference Applications are allowed, then the fate of the assessment order(s) in question would altogether change and such assessment(s) would then be required to be made on values notified in the Valuation Ruling. Though the learned counsel appearing on behalf of the Respondents has

¹ SCRA 1789 of 2023 and other connected matters.

vehemently argued that the forums below have decided the matter independent of the fact that whether the Valuation Ruling is in field or not. However, we are not impressed with such argument as the concluding para and the ratio of the orders of the forums below is premised on the setting aside of Valuation Ruling No.1722 of 2022. If the order(s) of the forums below are upheld in this manner, then it may prejudice the case of any of the party once the pending Reference Applications are finally decided by this Court.

4. In view of the above facts, the impugned orders of the Tribunal cannot be sustained; hence the same are hereby set aside and the Appeals covered by the two impugned judgments in question shall be deemed to be pending before the Tribunal and shall be adjourned *sine die* by the Tribunal till such time the Reference Applications are finally decided and the fate of the Valuation Ruling in question has been finalized. Once the same has been done, then the Tribunal shall proceed with the matters in accordance with law.

5. With these observations, instant Reference Applications are **allowed**, and the matters stand remanded. Let copy of this order be sent to the Customs Appellate Tribunal, Karachi, in terms of sub-section (5) of Section 196 of Customs Act, 1969. Office shall also place copy of this order in the connected Reference Applications.

J U D G E

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Farhan/PS