

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Special Customs Reference Application No. 60 of 2024

Date

Order with signature of Judge

Hearing of case

1. For Order on CMA No. 4172/2024.
2. For hearing of CMA No. 2295/24.
3. For Regular Hearing.

27.02.2025.

Mr. Zulfiqar Ali Arain, Advocate for Applicant.

M/s. Maimoona Nasreen & Muhammad Iqbal Riaz, Advocates
for Respondent.

Through this Reference Application the Applicant has impugned judgment dated 01.11.2023 passed in Customs Appeal No.H-1117/2023 by the Customs Appellate Tribunal, Bench-III, Karachi, proposing various questions of law; however, at the very outset after briefly hearing the learned Counsel and after going through the record we have noticed that the Respondent in whose favour, the Tribunal has passed the impugned order had never appeared before the adjudicating authority as reflected from the Order-in-Original No. 100 of 2023 dated 15.05.2023, whereas, the Tribunal has considered the contention of the Respondent including documents which were never presented before the original authority and based on that has overturned a finding of fact recorded at the original stage that vehicle imported into Pakistan was smuggled; hence, was liable for outright confiscation.

While confronted it is contended by the Counsel for Respondent that no show cause notice was ever issued to the present Respondent, therefore, he could not appear before the Adjudicating Authority; however, if that be the case, then the Tribunal ought to have remanded the matter to the original authority for examining the contention of the Respondent, as the Order-in-Original was an ex-parte order.

In the circumstances, the impugned order of the Tribunal and Order in Original are hereby set-aside and the matter is remanded to the concerned adjudicating authority before whom the Respondent shall appear and place all material and documents which they had relied upon before the Tribunal; whereafter, the said authority shall pass appropriate Order-in-Original in accordance with law preferably within a period of 60 days from today.

The Reference Application is allowed in the above terms.

Acting Chief Justice

Judge

Ayaz