

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Special Custom Reference Application No. 444 of 2024

Date

Order with signature of Judge

HEARING / PRIORITY

- 1) For hearing of main case.
- 2) For hearing of CMA No. 2085/2024.

26.03.2025.

Mr. Ghulam Nabi Shar, Advocate for Applicant.
M/s. Sardar Zafar Hussain & Ms. Kainaat,
Advocates for Respondent No. 2.

Through this Reference Application, the Applicant has impugned Order dated 11.07.2024 passed in Customs Appeal No. K-2351 of 2024 by the Customs Appellate Tribunal at Karachi proposing the following Questions of Law:-

- i. Whether in the lights of facts and circumstances of the case. the learned Custom Appellate Tribunal has not erred in law by ignoring the dicta and judgment in the case of Collector of Customs V/s Muhammad Zubair Gheewala, 2016 P.T.D, 1913, & Collector of Customs V/s M/s Habib Sugar Mill, 2021 PTCL 393?
- ii. Whether the Tribunal's reliance on the physical examination conducted by the customs officers, without laboratory analysis, constitutes a violation of due process and the Applicant's right to a fair trial?
- iii. Whether the Tribunal erred in law by failing to properly apply the Explanatory Notes to the Harmonized Commodity Description and Coding System (HS Coding System) when classifying the imported goods?
- iv. Whether the Tribunal's decision violated the principles of natural justice by not providing the Applicant with an adequate opportunity to contest the examination and valuation findings?
- v. Whether the Tribunal's decision took into account the Applicant's right to have the valuation and classification of goods reviewed independently and impartially, especially given the contentious nature of the examination reports?

Heard learned Counsel for the parties and perused the record. The only ground urged on behalf of the Applicant is

that the Applicant had not indulged into any mis-declaration as alleged in the Show Cause Notice in respect of a certain portion of the consignment, whereas, the request of the Applicant for carrying out an independent laboratory test was never entertained; however, it is an admitted position that after passing of order in original the Applicant has taken delivery of goods which are no more available for grant of any such application for testing of goods. Such conduct on the part of the Applicant does not entitle the Applicant to seek any favorable answer to Question i & ii; whereas, the remaining questions cannot be answered in absence of a proper test carried out before release of goods.

Accordingly, no substantial Question of law are arising out of the order of Tribunal. This Reference Application is hereby ***dismissed***. Let copy of this order be sent to Customs Appellate Tribunal in terms of sub-section (5) of Section 196 of Customs Act, 1969.

ACTING CHIEF JUSTICE

J U D G E

Arshad/