

**ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI**

Special Customs Reference Application No.90 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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Hearing of case [Priority]

1. For orders on office objection No.11 & 26
2. For hearing of main case
3. For hearing of CMA No.621 of 2022 [Stay Application]

23.04.2025

Ms. Nuzhat Shah, Advocate for Applicant

Respondent stands duly served through publication, but no one has turned up.

Through this Reference Application, the Applicant has impugned Judgment dated 16.11.2021 passed in Custom Appeal No.K-316/2017 by the Customs Appellate Tribunal Bench-III Karachi, proposing various Questions of law. However, at the very outset, perusal of the impugned judgment reflects that learned Member of the Tribunal has not assigned any independent reasons for setting-aside the orders passed by the forums below. The entire finding of the Tribunal reads as under:-

“9. For the foregoing deliberation and in the light of prescribed law laid down by the Superior Judicial fora and in adherence of ration decendi, I hereby allow the appeal and set aside the order passed by the forum below within hierarchy of customs hold that the appellants have been dragged needlessly in the litigation in the absence of any wrong doing or mis-declaration within the meaning of Section 32 of the Act, 1969 and allow the appeal and show cause notice providing the basis thereof for impugned order are hereby vacated and set aside with no order as to costs. Respondent / Department is directed to refund to the appellant the paid amount of excess duty and taxes and not leviable under the law.”

Learned Tribunal has just reproduced the contentions of the Respondent from the Memo of Appeal and has given the above observation, which in our view cannot be sustained. The Tribunal being a last fact finding forum has to determine the facts and then decide the Questions of law with its own reasoning independently and not in the manner, as above.

In view of above position, the impugned Judgment of the Tribunal dated 16.11.2021 stands **set-aside** and the matter stands remanded to the Tribunal to decide the same afresh in accordance with law after providing an opportunity of hearing to all concerned. The Tribunal shall assign its own reasons for doing the same. Let a copy of this order be sent to Customs Appellate Tribunal, Karachi in terms of sub-section (5) of Section 196 of Customs Act, 1969.

ACTING CHIEF JUSTICE

JUDGE

Qurban/PA*