

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

Special Customs Reference Application Nos. 788, 789 & 790 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For order on CMA No. 578/23.
2. For hearing of main case.
3. For order on CMA No. 579/23.

**06.11.2025**

Mr. Munawwar Ali Memon, Advocate for Applicant.

The representative facts herein are that the impugned judgment is rendered entirely on appreciation of evidence, as discerned, *inter alia*, from the following contents of the impugned judgment:-

“5. The Appellant preferred appeal against the impugned Order-in-Original and raised the following issue;

1. *That the goods seized are locally manufactured by M/s. National Tobacco Industries (Pvt) Ltd. Bhimber AJK and purchased from M/s. Saleem & Company Bhawalnagar and M/s. Muzafar Saeed Enterprises Juranwala.*

2. *Adjudicating authority while passing impugned order has also erred in law that the above respondent was totally and bonafidely failed to discharge his burden of proof under section 187 of the Custom Act, 1969.*

6. It is established legal principle that if the owner of the goods (M/s. Chandar Laal Traders) furnishes adequate documents and prove his claim in response to charges framed by department, then burden of proof initially set on the owner of the goods under section 187 of the Customs Act, 1969 is shifted back to the department. Reliance is placed on SCRA 131 of 2016 dated 11.01.2021. Therefore, I am of candid view that Respondent has successfully discharged the burden of proof by providing the relevant documents, however, the department could not forward any plausible reply to counter these documents.

7. The owner of the goods discharged the burden of proof, by providing letter of M/s. National Tobacco Industries (Pvt) Ltd. and purchase invoices, shifted back the burden to the Department in terms of section 187 of the Customs Act, 1969. The department on other hand failed and did not bother to get verified or refuted these documents from the concerned manufacturer and sellers.

8. The failure of the department to produce any documents / evidence in their favour your has given credence to the stance of the owner of the goods. I am of the firm view that order passed by the Collector of Customs (Adjudication), Quetta, Camp office @Hyderabad, is infested with numerous infirmities including invoking of 273 action under section 15 whereas this section was never mentioned in the show cause notice altogether therefore the learned Collector (Adjudication) tried to tress pass the boundary where he had to confine himself for the adjudication proceedings with in four wall of statutory provisions mentioned in show cause notice.

9. For what has been discussed above the appeal filed by the department Customs Appeal No. H-802 of 2022 is rejected and appeals filed by the owner of the goods and vehicle Customs Appeals Nos. H-810 of 2022 and H-811 of 2022 both succeed. Therefore the Customs Order-in-Original No. 47 of 2022 dated

07.03.2022 is set aside and seized goods along with seized vehicle by the Department are ordered to be released unconditionally. No order to cost.

10. The cross appeals are disposed of in above terms.”

On 30.10.2025, learned counsel was confronted as to how this reference could be entertained since the Tribunal is the last fact-finding forum in the statutory hierarchy, and no *de novo* appreciation of evidence is merited in the reference jurisdiction. He was also queried as to whether any questions of law arose in the said facts and circumstances, he remained unable to assist, therefore, the matter was adjourned till today. Same is the case today.

In view hereof, since no appreciation of evidence is merited in reference jurisdiction and no question of law, arising therefrom, has been articulated before the Court, these references are hereby dismissed in *limine*.

A copy of this order may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969. Office is instructed to place copy of this order in the connected files.

Judge

Judge

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Ayaz p.s.