

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 676, 677, 678, 680, 688 & 689 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
------	----------------------------------

- 1. For orders on office objection
- 2. For hearing of CMA No.2243/2019
- 3. For hearing of main case

19.11.2025

Mr. Aamir Raza, advocate for the applicant

Mr. Faheem Raza Khuhro advocate holds brief for Mr. Muhammad Adnan Moton, advocate for respondent

The only question pleaded for determination by the applicant is whether the Customs Department was empowered to initiate proceedings for short levy of Income Tax, Sales Tax etc.

Per learned counsel the question has already been determined in favour of the applicant vide judgment of the Supreme Court passed on 05.09.2025 in Civil Petitions No. 70-K to 72-K of 2023 (The Directorate of Post Clearance Audit through its DG, FBR, Islamabad vs. Nestle Pakistan Limited, Islamabad and others. Learned counsel placed on record order dated 04.11.2025 in SCRA 1331 of 2023 to demonstrate that in identical circumstances orders have been rendered in adherence to the Supreme Court judgment cited supra. The order dated 04.11.2025 is reproduced herein below :

“04.11.2025

Sardar Zafar Hussain, advocate for the applicant along with Mr. Muhammad Siddiq, advocate and Mr. Tariq Aziz, AC Customs. Ms. Saima Syed, advocate for respondent.

The following question had been proposed for determination:-

“Whether in the light of facts and circumstances of the case, the learned Appellate Tribunal erred in law to hold that the Customs Authority is not empowered to collect the amount of Taxes in terms of Section 32 of the Customs Act 1969 and Section 6 of the Sales Tax Act, 1990 as the word “Tax” was inserted through Finance Act 2014 and “including recovery” was inserted through Finance Act 2015, respectively with deliberation and conscious that the sales tax will be recovered in the same manner as it is collected at the import stage?

Learned counsel for the respondent states that in view of the judgment of honourable Supreme Court in the case of *Nestle Pakistan Limited (Civil Petition 70K of 2023)* and connected matters, the question has already been decided in favour of the department applicant and against the respondent, therefore, in mutatis mutandis application thereof, the said question is answered in favour of the applicant department. The reference is disposed of accordingly.

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”

Mr. Faheem Raza Khuhro advocate holding brief for Mr. Muhammad Adnan Moton, advocate for respondent and merely seeks an adjournment. Request is not sustainable inter alia as it appears to be a modus operandi of the respondent on each successive date and these matters are pending in the docket since 2019 notwithstanding the fact that the issue has been settled by the Supreme Court.

In view of the binding judgment of Supreme Court passed on 05.09.2025 in Civil Petitions No. 70-K to 72-K of 2023 (The Directorate of Post Clearance Audit through its DG, FBR, Islamabad vs. Nestle Pakistan Limited, Islamabad and others, the question pleaded for determination is answered in favour of the applicant department and against the respondent. These reference applications are disposed of.

A copy of this decision 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 connected matters.

Judge

Judge

Amjad