

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

SCRA 1636 of 2023

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DATE

ORDER WITH SIGNATURE OF JUDGE(S)

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1. For orders on office objection
2. For hearing of CMA No.4489/2023
3. For hearing of main case
4. For hearing of CMA No.4490/2023

**31.03.2026**

Mr. Khalilullah Jakhro, advocate for the applicant

Following questions of law had been proposed for determination

1. Whether the learned Customs Appellate Tribunal erred in law by holding that Section 2(s) of the Customs Act, 1969 was not attracted merely on the ground that the value of seized petroleum products was less than Rs.500,000/- despite the fact that Section 2(s) relates to the definition of "smuggled goods" and does not restrict confiscation solely on the basis of value?
2. Whether the learned Tribunal misinterpreted and misconstrued the scope and application of Section 2(s) of the Customs Act, 1969 by excluding petroleum products from its ambit on erroneous grounds thereby defeating the legislative intent of anti-smuggling laws?
3. Whether the learned Tribunal acted illegally and without lawful authority by holding that the Customs Authorities had no jurisdiction to inquire into the legality of storage tanks and accessories, despite their direct nexus with illegal storage and sale of petroleum products?
4. Whether the learned Tribunal failed to appreciate that in cases of suspected smuggling, the burden of proof lies upon the person in possession of goods under Section 187 of the Customs Act, 1969 and wrongly shifted the burden upon the department?
5. Whether the learned Tribunal failed to consider that non-production of valid authorization/licence under the Petroleum Act, 1934 and OGRA Ordinance, 2002 itself constitutes sufficient ground to presume illegal possession and smuggling of petroleum products?
6. Whether the learned Tribunal's judgment suffers from misreading and non-reading of evidence and law, and is therefore not sustainable in law?
7. Whether the impugned judgment is perverse arbitrary, and contrary to the settled principles governing anti-smuggling proceedings under the Customs Act, 1969?

Learned counsel states that pursuant to last order for substituted service, publication has already been taken place and the copy of newspaper is placed on record.

Learned counsel states that notwithstanding the aforementioned questions, matter prima facie not been adjudicated in accordance with law or at all by the learned Tribunal and the impugned judgment is also devoid of due discussion and / or deliberation. He states that the tribunal is the last fact-finding forum in the statutory hierarchy and such a perfunctory attitude ought not to be sustained insofar as a final appellate judgment is concerned. Learned counsel states that it is in the interest of justice and revenue let the impugned judgment be set aside and the matter be remanded back to the learned Tribunal for adjudication afresh in accordance with law. Order accordingly.

A copy of this decision may also be sent under the seal of this Court and signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Judge

Judge

Amjad