GOVERNMENT OF PAKISTAN
CUSTOMS, APPELLATE TRIBUNAL
KARACHI BENCH-I,
3RD FLOOR, JAMIL CHAMBER,
SADDAR, KARACHI

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Mr. Muhammad Nadeem Qureshi, Member (Judicial-I), Karachi
Mr. Muhammad Yahya , Member (Technical-I), Karachi

Customs Appeal No. K -982/2015

M/S ASIF TEXTILE TRADING,
KARACHI ..... APPELLANT

VERSUS

THE DIRECTORATE GENERAL OF
INTELLIGENCE & INVENSTIGATION-FBR,
KARACHI

THE COLLECTOR,
MCC OF APPRAISEMENT-WEST,
CUSTOM HOUSE ,
KARACHI.

THE COLLECTOR,
COLLECTORATE OF CUSTOMS,
ADJUDICATION-I,
CUSTOM HOUSE,
KARACHI..... RESPONDENTS

Mr. Nadeem Ahmed Mirza & Mirza Muhammad Abeer (Consultants) & Obayd Mirza (Advocate) for the Appellant

Mr. Farhat Jafferi , S.I.O., for respondent no. 1
Mr. Muhammad Azam, A.O., for respondent no. 2

Date of Hearing: 29.09.2015
Date of Order: 04.12.2015

JUDGMENT

ATTESTED

Muhammad Nadeem Qureshi, Member (Judicial-1): By this order, we intend to dispose off Customs Appeal No. K-982/2015 filed by the appellant against Order-in-Original No. 552/2014-2015 dated 22.05.2015 passed by the Collector of Customs, Adjudication-I (here-in-after to be referred as respondent no. 3) through this single order.

2. Briefly facts as stated by the appellant and Directorate General of Intelligence and Investigation-FBR, Karachi (here-in-after to be referred as respondent no. 1), are that the appellant is a manufacturing unit of textile, registered with FBR vide NTN No. 02844457-5 and STRN-12-00-3903-003-28, during the course of his business activities he imported 72 consignments between 19.12.2013 to 03.01.2014 of polyester filament yarn and upon receipt of import documents his clearing agent transmitted Goods

Declaration under the provision of Section 79(1) of the Customs Act, 1969 and Rule 433 of Sub Chapter III of Chapter XXI of the Customs Rules, 2001 with the MCC of Appraisement under supervisory control of Collector (here-in-after to be referred as respondent no. 2) while claiming payment of sales tax and income tax on reduced rates in terms of Notification No. SRO 1125(I)/2011 dated 31.12.2011. The clearance of all consignment was allowed by the subordinate of respondent no. 2 after due verification that the appellant manufacturing unit is one of the five sector as enunciated in Table I of the Notification, he is duly registered with the Inland Revenue and his status is "Active Tax Payer", after passing valid and legal assessment/clearance orders under Section 80 & 83 and Rule 438 & 442 ibid., after going through the examination report carried out under the provision of Section 198 of the Customs Act, 1969 and Rule 435 of Customs Rules, 2001 in the month of May 2014 the respondent no.1 blocked clearance of two consignments of the appellant corresponding to Goods Declaration No. KEPW-HC-147133 dated 09.05.2014 & KEPW-HC-149319 dated 13.05.2014. Resultant, the appellant approached the officialss of respondent no. 1, which informed him that his registration is "suspended". Since, the status appearing on the Portal of FBR was contrary, the appellant filed C.P. No. 2899/2014 with the High Court of Sindh, against respondent no. 1, which upon notice of the Hon'ble High Court of Sindh submitted comments, in which it stated that a show cause notice dated 28.12.2006 was issued to the appellant, against which order-in-original was passed and demand was created, therefore the User ID of the appellant was blocked and the registration was suspended. In the light of the comments and Annexures, the appellant approached the Commissioner Inland Revenue, Zone-I, RTO for supply of the impugned show cause notice and order-in-original enabling him to assail the vires of those before the forum set-forth forth in the Sales Tax Act, 1990. Ironically, he was not having either show cause notice or order-in-original. Resultant, the Chief Commissioner, RTO forwarded letter dated 14.10.2014 to the Collector of Customs, MCC of Export for supply of the copy of the show cause and order-in-original, who informed through letter dated 24.10.2014 that the appellant had not availed any facility of DTRE as per their records, hence no information can be supplied in this regard in addition to the impugned order-in-original No. 06 dated 19.05.2007, which is non-existent and as such cannot be supplied, due to suffer of lack of availability. After receipt of the said reply the Commissioner, Zone-1, RTO inspite not warranted in the given circumstances of the case directed the appellant to submit a bank guarantee for the sake of regularization and to securing the amount said to be adjudged against the appellant through the impugned order-in-original No. 6 dated 19.05.2007, amounting to Rs. 3,762,050.00.

ATTESTED

3. Since, the appellant consignment were lying in the Terminal and suffering container detention/rental and terminal demurrage/storage charges, he submitted the same through bank guarantee dated 21.11.2014. Consequent to which the Commissioner Inland Revenue, Zone-1, RTO restored Sales Tax Registration of the

appellant vide order dated 24.11.2014. Inspite of the fact that no proceeding can be initiated against the appellant in the given circumstances of the case, the respondent no. 1 framed contravention report and forwarded to Collector of Customs, (Adjudication-I) (here-in-after to be read as respondent no. 3) with the allegation that the appellant inspite of having status of non active and suspended w.e.f. 30.06.2013 imported the consignment valuing to Rs. . 268,456,049.00 referred in para supra and managed to obtain their clearance with the benefit of payment of sales tax and income tax at reduced rates under Notification no. 1125(I)/2011 dated 31.12.2011. Inspite non entitlement and as such evaded 15% sales tax 3% additional sales tax and consequential 4.5% with-holding tax on the said import amount of which have been worked out to Rs. 40268,407/-, Rs. 8,053,681/- & Rs. 14,255,016/- totaling to Rs. 62,577,105/-, this act of his is in violation of the provision of Section 32(1) and (2) of the Customs Act, 1969, Section 3,4,6,7A 8(1b) , 34,36 & 71 of the Sales Tax Act, 1990 read with Section 148 of the Income Tax Ordinance, 2001,punishable under clauses (14) of Section 156 (1) of the Customs Act, 1969 read with Section 33 and 34 of the Sales Tax Act, 1990. Who issued show cause notice dated 26.11.2014, which was replied by the appellant vide letter dated 07.01.2015 in addition to attendance of hearing fixed for 12.01.2015 and 21.01.2015. Since, inspite lapse of 03 months from the date of last hearing no order was issued by respondent no. 3, the appellant engaged consultant, who submitted addendum to the reply to the show cause notice through letter dated 30.05.2015, which was acknowledged by the respondent no. 3 on 01.06.2015. Inspite receipt of addendum on 01.07.2015 the respondent instead of considering that passed order on the same day but dating 22.05.2015 and dispatched the same to the appellant through consignment note No. K-180358982 dated 01.06.2015, para 4 & 5 of the order are relevant, which are reproduced here-in-below:

ATTESTED

4- I have gone through the record of the case and considered the written reply of the respondent and verbal arguments of both sides, it is an accepted position that M/s. Asif Textile Trading (NTN-284457) office No. 303, 3rd Floor, Textile Plaza, M.A.Jinnah Road, Karachi was suspended from the Active Tax Payer list since 30.06.2013 and all imports stated in the show cause notice are for the period of their suspension, condition(i) of SRO 1125(I)/2011 dated 31.11.2012 state as under :-

> *The benefit of this Notification shall be available only to the person doing business in textile (including jute), carpets, leather , sports and surgical goods sector, who are registered as manufacturer, importer, exporter or whole-seller under the Sales Tax Act, 1990 and appears on the Active Tax Payer list ATL) on the website of Federal Board of Revenue." (emphasis added)*

5- Since it is un-equivocally and clearly stated in the aforesaid condition that the benefit of SRO 1125(I)/2011 dated 31.12.2011 is only available if the person's name appears on active tax Payer List (ATL) which in the case of M/s. Asif Textile Trading (NTN-284457), Office No. 303, 3rd Floor, Textile Plaza, M.A.Jinnah Road, Karachi was under suspension, therefore, I hold that they were not eligible for the benefit of SRO 1125(I)/2011 dated 31.12.2011 and are liable to pay duty and taxes at statutory rates. Accordingly, the charges as enumerated in the show cause notice stand established. I therefore, order M/s. Asif Textile Trading (NTN-284457), Office No. 303, 3rd Floor, Textile Plaza, M.A.Jinnah Road, Karachi to immediately deposit the short paid amount of Rs.

67,109,814/- (Sales Tax amounting to Rs. 43883008/- Additional Sales Tax amounting to Rs. 8776601/- and With Holding Tax amounting to Rs. 14450205/-) in Government Treasuring in terms of Section 32(2) of the Customs Act, 1969. A penalty of Rs. 2,000,000/- (Rs. 02 Millions) is also imposed under clause (14) of Section 156(1) of the Customs Act, 1969 for violation of Section 32(1) ibid, on the respondent M/s. Asif Textile Trading (NTN-284457), Office No. 303, 3rd floor, textile Plaza, M.A.Jinnah Road, Karachi.

4. Being aggrieved and dissatisfied with the impugned Order-in-Original, the appellant filed instant appeal before the Tribunal on the grounds incorporated in memo of appeal and which are:

(i) *That after passing of clearance and assessment order under Section 80 and 83 Rule 438 and 442 of Sub Chapter III of Chapter XXI of Customs Rule 2001 by the authority defined in Section 2(a) ibid and 'out of charge' of the consignments, the appropriate authority to conduct audit of the cleared consignments rests with the Officials of 'Directorate General of Post Clearance Audit', formed under the provision of Section 3DD of the Customs Act, 1969 and empowered under Notification No. 500(I)/2009 dated 13.06.2009 and to issue audit observation and thereafter prepare contravention report for the purpose of adjudication by the competent authority empowered under the provision of Section 179 of the Customs Act, 1969, after issuance of proper Show Cause Notice under Section 180 ibid. The Officials of respondent no. 1 & 2 figure nowhere in the respective provision of the Customs Act, 1969, nor in the Notification No. 500(I)/2009 dated 13.06.2009. By laying hands on the consignments which have been cleared after passing of valid assessment and clearance order by the competent authority under the referred in above provisions of the Act/Rules, 2001, the respondents tried to conduct audit of the consignments after clearance for which they are not empowered. By transgressing the powers and jurisdiction of the Directorate General of Post Clearance Audit, they acted without powers/jurisdiction rendering their acts ab-initio void and as such coram-non-judice. Reliance is placed on PLD 2001 Supreme Court 514, PLD 1976 Supreme Court 514,PLD 1971 SC 184, PTCL 2007 CL 78 ,2001 SCMR 1822 , PLD 2004 Supreme Court 600, 2005 Supreme Court 842, 2009 PTD 1083, PLD 1995 Kar. 587, PLD 1973 S.C. 236, PLD 1971 S.C., 197*

ATTESTED

(ii) *The Officials of respondent no. 1 are not designated an "Officer of Inland Revenue" under Section 30A of the Sales Tax Act, 1990 and Section 230 of the Income Tax Ordinance 2001 under which "Directorate General Investigation, Inland Revenue" has been designated as Officer of Inland Revenue and they had been delegated powers under different Section of the Sales Tax Act, 1990 through Notification No.S.R.O.776(I)/2011 dated 19.08.2011 and Section 207 of the Income Tax Ordinance 2001 . Resultant, Officials of respondent no. 1 acted without powers/jurisdiction, rendering their act of preparation of contravention report, without power and jurisdiction, hence "coram non-judice" as held in reported judgment Major Syed Walayat Shah v/s Muzaffar Khan and 2 others (P.L.D 1971 S.C 184), Omer & Company v/s Controller of Customs, (Valuation): (1992 A.L.D. 449 (1) Karachi AAA Steel Mills Ltd V/s Collector of Sales Tax and Central Excise Collectorate of Sales Tax (2004 PTD 624), PLD 1976 Supreme court 514 Ali Muhammad v/s Hussain Buksh & others and PLD 2001 Supreme Court 514 Land Acquisition Collector, Noshehra & others v/s Sarfraz Khan & Others, PTCL 2007 CL.78 Pak Suzuki Motors Company Ltd, Karachi v Collector of Customs, Karachi, 2009 PTD (Trib.) 1996 & 2010 PTD (Trib.) 832*

(iii) *The Officials of respondent no. 1 have no powers under Section 32 & 195 of the Customs Act, 1969 as notified in SRO 486(I)/2007 dated 09.06.2007 issued by the Board through which powers has been delegated. Intercepting consignment after clearance on the pretext of mis-declaration on the basis of feeding of status ATL despite not by the FBR in its portal. The Officials of respondent no. 1 acted beyond their notified powers/jurisdiction, rendering their act as transgression to the vested powers under the respective Section other wise not vested to them by the Board. In these circumstances the impugned contravention report and show cause notice and all the subsequent proceeding there on deems to be illegal and void. No body is allowed to act beyond his*

jurisdiction and all the acts or deeds beyond the scope of jurisdiction are null and void in the eyes of law. Reliance is placed on the reported judgments PTCL 2003 CL 345, PLD 1971 Supreme Court 61, PLD 1973 Supreme Court 236, PLD 1964 SC 536, 2001 SCMR 838 and 2003 SCMR 1505, In PLD 1996 Karachi 68, 2006 PTD 978 & PLD 1971 Supreme Court 184.

(iv) *That on conclusion of transaction, under the provision of Section 80 and 83 of the Customs Act, 1969 and 438 and 442 of Customs Rules, 2001, the order so passed under the said provision of the Act become appealable order before Collector of Customs (Appeals) under Section 193 of the Customs Act, 1969 and the Officials of respondent no. 1 are empowered under the said Section through Notification No. 486(I)/2007 dated 09.06.2007. If they had any reservation against the passed assessment order, the appropriate course of action was to assail the said order before the Collector of Customs Appeals. Which had not been done within the stipulated period and order so passed by the competent authority defined in Section 2(a) under Section 80 of the Customs Act, 1969 final and that cannot be disturbed by any authority.*

(v) *That upon filing of the appeal by the Officials of respondent no. 1 before the Collector of Customs Appeals under Section 193 of the Customs Act, 1969 emanating the facts of the case and the relevant provision of law. Upon taking up the appeal it is mandated on him to go through the fact and ground of the appeal and thereafter if he think fit that in the case under adjudication correct duty and taxes has not been either not levied or short paid on the basis of found goods, is empowered to issue a notice under Section 32 of the Customs Act, 1969 to the importer (applicant) and after receipt of reply to the said notice the Collector of Customs has to decide the appeal in the light of the issued show cause notice and reply. In the instant case no appeals has been filed by the Officials of respondent no. 1 despite mandated under law, instead assumed the powers under Section 195 of the Customs Act, 1969 and reopened a valid passed order under Section 80 ibid. The Officials of respondent no. 1 are not empowered to reopen an order, hence acted without power/jurisdiction, rendering their act of preparing contravention report is without any lawful authority and as such ab-initio, null and void as held by Superior Judicial Foras in umpteenth reported judgments e.g. 2014 PTD 1256 M/s. Paramount International (Pvt) Ltd v FOP & others.*

(vi) *That the respondent no.3 has invoked in the show cause notice Section 3, 4, 6 7A, 8 (1b), 34, 36 & 71 of the Sales Tax Act, 1990 & Section 148 of the Income Tax Ordinance, 2001 contrary to the fact that none of the Sections of Sales Tax are applicable on the appellant with the exception of Section 36 ibid , which stood omitted through Finance Act, 2012. Likewise Section 148 is equally not a charging Section instead a machinery Section empowering the Officer of Customs, to collect the leviable income tax at import stage. No show cause notice can be issued under the said Sections, rendering the show cause notice void and ab-initio and of no legal effect as held in reported judgment judgments Asst. Collector v. Khyber Elec. Lamps 2003 PTD 1275, D G Khan Cement v Collector of Customs 2005 PTD 480, Caltex v Collector (2003) 88 Taxation 128 (Lah), Union Playing Card Company v Collector of Customs 2002 MLD 130, Atlas Tyres v Addl. Collector 2002 MLD 180, State Cement v Collector PTCL 2008 CL 558, Kashmir Sugar v Collector 1992 SCMR 1895, Rose Color v Chairman, CBR & 2013 PTD 813 Sarwar International v Addl. Collector of Customs.*

ATTESTED

(vii) *That apart from the above, it is imperative to state that respondent no. 3 is also not designated as Officer of 'Inland Revenue' under the provisions of clause (c) sub-Section 3 of Section 25 of the Sales Tax Act, 1990 and Section 207 of the Income Tax Ordinance 2001 thus not empowered to issue a 'Show Cause Notice'(SCN) , in the matters of Sales Tax under Section 11 (mentioned as 36 without realizing/consulting the Act that it stood deleted through Finance Act, 2012) of Sales Tax Act, 1990 and Section 162(1) of the Income Tax Ordinance, 2001. By doing so, respondent no. 3 usurped the powers of officers of 'Inland Revenue'. In other words, even very issuance of SCN is in flagrant violations of law. Hence corum non judice and ab initio null and void and of no legal effect/consequences. Reliance is placed upon PLD 1971 SC 184 Major Syed Walayat Shah Vs. Muzaffar Khan and 2 others, 1992 ALD 449(I) Omer & Company Vs. Controller of Customs (Valuation) Ali Muhammad Vs. Hussain Buksh& others PLD 1976 Supreme Court 514 and PLD 2001 SC 514, PTCL*

2008 CL.37 M/s Al-Faiz Industries (Pvt) Ltd and others, CPNo.D-216/2013 M/s Lucky Cement Ltd Karachi Vs. Federation of Pakistan and others :

> *"The word emphasized could be regarded as being in the nature of deeming provisions. If so, then (subject to the rules of interpretation that apply in such a situation) that nature of sales tax or excise duty on imports, for purpose of levy, charge or collection (as the case may be), may be regarded as a customs duty. Clearly, this would be a materially different situation than that which obtains in relation to advance income tax on imports. In our view, the jurisdiction of the customs authorities (i.e. the Collector of Customs) is limited to only the collection of the advance income tax. Furthermore, sub-Section (6) of Section 148 emphasizes that provisions of the Customs Act apply only to the Collection of the tax and that too, only in so far as is relevant. Since there is a clear distinction between the collection of a tax on the one hand and its recovery or enforcement on the other, in our view, the provision of the Customs Act as relate to the latter are not applicable in relation to the jurisdiction conferred on the Customs Authorities under Section 148."*

(viii) *That respondent no. 3 has also invoked in the Show Cause Notice the provision of Section 32(1) on the strength of contravention forwarded by the Officials of respondent no. 1 which read as follows:*

> *Section 32 False statement, error, etc. ------ If any person, in connection with any matter of customs, ---*
>
> *(a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to an Officer of customs any declaration, notice, certificate or other document whatsoever, or*
>
> *(b) makes any statement in answer to any question put to him by an Officer of customs which he is required by or under this Act to answer,*
>
> *Knowing or having reason to believe that such document or statement is false in any material particular, he shall be guilty of an offence under this Section. (Emphasis Supplied)*

ATTESTED

(ix) *That it is evident from the above expression, that the untrue and false statement attracting the mischief of these provisions has to be made by the importer/exporter and by the clearing agent or by any person submitting document with the customs in connection with any matter of customs "Knowing or having reason to believe". The provision of Section 32 contemplate , the existence of a personal "knowledge" Believe being a conviction of mind arising not from actual perception or knowledge but by way of inference of evidence received or information derived from others. It falls short of any absolute certainty because the accused in accounting for his possession, may be able to show that the ground upon which is based are unsubstantial.*

In the instant case as evident from the annexed goods declaration no mis-declaration in any aspect has been visible made by the appellant and for that reason the Officials of the respondent no. 2 allowed clearance of the goods after passing of valid assessment/clearance order under the provision of Section 80 and 83 of the Customs Act, 1969 and Rule 438 & 442 of Sub Chapter III of Chapter XXI of the Custom Rule 2001. The feeding of status in the FBR Portal rest on the part of the FBR itself, not on the appellant or the Officials of respondent no. 2. That also does not fall within the ambit of mis-declaration attracting Section 32(1) of the Customs Act, 1969, for leveling allegation for the status of ATL is without any substance as there exist least an iota of reason to believe that the said act is on the appellant part and this has been held in the case of Fazal Kader Chowdri v Crown PLD 1952 FC 19. That the term "reason to believe", has to classified at a "higher pedestal, then mere suspicion and allegation, but not equivalent to prove evidence. Even the strongest suspicion cannot transform in "reason to believe". The criteria laid down (to differentiate

between mere suspicion and reason to believe) has to be, that some tangible evidence is available against the accused, which if left un-rebutted, may leave to the inference of guilt." Reliance is placed on reported judgment 2011 PTD (Trib) 2220 & 2011 PTD (Trib.) 2220.

(xi) That respondent no. 3 simultaneously has also invoked the provision of Sub Section (2) of Section 32 of the Customs Act, 1969, without observing the fact that the same is not applicable as evident from contravention report, which is silent in regards to any "deliberate act" on the part of the appellant or connivance with the Officials of the respondent no. 2 in the act of assessment/clearance of the goods, this confirms that Section 32(2) is not applicable and the case of the appellant squarely falls within the ambit of inadvertence, error and mis-construction falling under the provision of Section 32 (3) of the Customs Act, 1969. The power to adjudicate cases under the provision of Section 32(3) rest with the Principal Appraiser in terms of SRO 371(I)/2002 dated 15.06.2002 and none else. To the contrary, respondent no. 3 issued show cause notice while transgressing the powers of the Principal Appraiser, which is not permitted under law, rendering the show cause notice and the anticipated order to be passed without power/jurisdiction , hence void and ab-initio and corum non judice.

(xii) The powers of adjudication are specific and empowered by the statute. It is an elementary principle of law that where there is a conflict between special and general provision of law, the special provision shall prevails (reference is invited to the case of Lt. General (Retd) Shah Rafi Alam Vs Lahore Race Club, PLJ 2003 Lah 1660). The power of adjudication, as already observed is special in nature. This cannot be eclipsed by any other general provision. Even otherwise there is another settled principal of interpretation of statute i.e. that the courts can supply construction with a view to avoiding absurdity (reference is invited to the case of Khalid Qureshi v UBL 2001 SCMR 103) . Equally it must be kept in mind that if it is held that Sections 4 and 179 and SRO 371(I)/2002 dated 15.06.2002 occupy the same fields, there is likely to be redundancy in respect of powers conferred u/s 179 and Notification SRO 371(I)/2002 dated 15.06.2002. The Supreme Court in the case of East West Steamship v Queen land Insurance PLD 1963 SC 663 has been pleased to hold that redundancy is to be avoided in respect of any provision of the statute. There is also plethora of case law on the point that where there is a conflict between two provision of the statutes, the later provision prevails and has to be given precedents (reference is invited to the case of Sahibzada Sharfuddin v Town Committee, 1984 CLC 1517. Apart from this law favour actions of the authorities to be confined to their own spheres of jurisdiction conferred by the statute. An action taken by a state functionary beyond the ambit of his jurisdiction is nullity. In this respect the judgment reported as Abida Rashid v Secretary, Government of Sindh PLD 1995 Kar 587 is referred. Their lordship observed as under:

ATTESTED

> "It is a trite law that power vested in an authority should only be exercised by that authority, in default whereof, the exercise of power and authority becomes without jurisdiction, illegal, void , ab-initio and of no legal effect. The term "without jurisdiction" has been judicially interpreted to include usurpation of power unwarranted by law (the Chief Settlement Commissioner Lahore v Raja Muhammad Fazil Khan & others PLD 1975 @ p.339) an act done which the person doing, it has no jurisdiction at all to do or which was clearly outside the scope of his activities (The State v Zia-ur-Rehman PLD 1973 SC 49) and a judgment or order delivered by a court or a judicial or a quasi judicial authority not competent to deliver it (Muhammad Saleh & others v M/s. United Grain and Fooder Agencies PLD 1964 HC 97) . The Constitution jurisdiction can thus be exercise when it is shown that the order is passed without jurisdiction or in excess of jurisdiction. As observed earlier the respondent no. 1 has no jurisdiction to pass the impugned order. As such we declare the same to be of no legal effect. Accordingly, we allow this petition but leave the parties to bear their own cost".

(xiii) That while dealing with the powers of adjudication, it is needless to observe, that our Supreme Court has also jealously guarded the same, the High Court of

Sindh in Customs Reference No. 101 and C.M.A No. 1281 of 2009 reported as 2010 PTD 465 Collector of Customs, Model Customs Collectorate v M/s. Kapron Overseas Supplies Co., (Pvt) Ltd filed on the question of law that whether passing of order without jurisdiction is a technical defect and does not render the proceeding as ab-initio void. The Hon'ble High Court dismissed the reference while holding that "any transgression of such jurisdiction for not being a technical defect would render entire exercise of authority to be ab-initio, void and illegal", without discussing the merit of the case, which relates to origin of imported goods and the Hon'ble High Court further held that "the exercise of jurisdiction by an authority is a mandatory requirement and its non fulfillment would entail the entire proceeding to be "corum non judice." The said defect render the show cause notice as well as Order-in-Original ab-initio, null and void by virtue of suffer of lack of power/jurisdiction. Hence coram non judice and needs to be strike down.

(xiv) That it is also imperative for appellant to state that isn't it ridiculous on the part of respondent no.1 and respondent no.3 to form opinion that the status appearing in the FBR Portal as non ATL is tantamount to mis-declaration on the part attracting the provision of Section 32 of the Customs Act, 1969. To the Customs Officers who completed the assessment orders under Section 80 of the Customs Act, 1969 & Rules 438 & 442 of Customs Rules 2001 and passed order of clearance under Section 83 ibid, in the presence of the status in the FBR Portal of the appellant as non ATL are let escort free, despite standing on the same pedestal. The said treatment given to appellant by the Officials of respondent no. 1 and respondent no. 3 is nothing more than amounts to giving a partial and differential treatment. A person placed at the same pedestal cannot be treated differently as it would constitute a negation of Articles 4 and 25 of Constitution of Islamic Republic of Pakistan. Reference is placed to reported judgment PTCL 2002 CL 50 ,2002 SCMR 312 , PTCL 2010 CL 671 , PTCL 2005 CL 138 & 2010 SCMR 431 that:

(xv) That irrespective of the above legal flaws, it is of paramount importance to abreast Hon'ble Tribunal that the whole case has been made out on presumptions and with due respect erroneous/unlawful working of the Officials of Inland Revenue and the Directorate General of Intelligence and Investigation, which stood validated from the following:

ATTESTED

(a) Temporary blocking of the appellant STRN was recommended by Deputy Collector (DTRE) on 24.05.2007 on the presumption that the appellant availed the facility of DTRE and an order has been passed against him, meaning thereby that appellant Sales Tax Registration was blocked on or after 24.05.2007.

(b) That despite blocking of STRN. The alleged blocking said to be made in the file only on 30.06.2013 but was not uploaded in the FBR Portal, resultant, appellant remained an Active Tax Payer (ATL) and on the strength of which the Officials of respondent nc.2 cleared the consignment.

(c) The said un-lawful blocking and the status of ATL was restored by the Commissioner (Zone-1) vide order dated 24.11.2014 with the observation that (i) the appellant has never applied for DTRE (ii) the Collector Export categorically confirmed that despite passing of order-in-original No. 6 dated 19.05.2007, copy of the same is not available and was not served on appellant as per mandated requirement of law (iii) inspite importing of 07 consignments during July 2003 to May 2005 PRAL showed its inability to confirm whether appellant had availed DTRE facility and (iv) inspite nothing on record against appellant submitted Bank Guarantee No. HMB/TPB/14/57 dated 24.11.2014 for Rs. 3762050.00.

(d) The entire episode right from issuance of recommendation for blocking of the appellant STRN and thereafter restoration is completely unlawful and hold no grounds. The entire fault lies on the field formation of the FBR that how appellant assumed that the appellant avail the facility of DTRE

and has not complied the condition laid in the DTRE Rules and if any order was passed, that was in isolation in the absence of serving of show cause notice and order-in-original. In the absence of the valid reason neither the appellant STRN or NTN can be either blocked or suspended or their status be changed from ATL to Non ATL. The entire process right from recommendation of suspending the appellant STRN temporarily, changing the status in FBR Portal as non ATL as against ATL and the show cause notice dated 26.11.2014 are without power/jurisdiction and as such void and ab-initio.

(xvi) *Notwithstanding to the above illegality, it is of paramount importance to state that the show cause notice by the respondent no. 3 was issued on 26.11.2014 and an order under the proviso of sub Section (3) of Section 179 of the Customs Act, 1969 should had to be passed within 120 days from the date of issuance of show cause notice i.e. by 26.03.2015 or within a further extended period of 60 days during the initial period of 120 days with reason to be recorded for extension in writing by the FBR. No extension was obtained/granted by FBR prior to expiry of initial period of 120 days i.e. before 26.03.2015. Instead as evident from para 2 of the order the respondent no. 3 extended the period himself inspite having no powers on the day on which the order was passed i.e. 22.05.2015 after the expiry of initial period of 120 days and entire allotted period of 180 days. Rendering the order-in-original dated 22.05.2015 barred by time by 54 days. Hence, without power/jurisdiction, as such ab-initio void as held in reported judgments 2008 PTD 60 M/s. Super Asia Muhammad Din Sons (Pvt) Ltd v Collector of Sales Tax,. Gujranwala & 2008 PTD 578 M/s. Hanif Strawboard Factory v Additional Collector (Adjudication) Customs, Sales Tax & Central Excise Gujranwala, 2009 PTD 762 M/s. Tanveer Weaving Mills v Deputy Collector Sales Tax & 4 others & PTCL 2009 CL 150 M/s. Syed Bhai Lighting Limited, Lahore v Collector of Sales Tax & Federal Excise, Lahore & 2 others &[(2009) 100 TAX 32 (H.C.Lah)] Leo Enterprises v President of Pakistan & others, 2010 PTD (Trib.) 1010 Innovative Impex, v Collector of Customs, Sales Tax & Federal Excise (Appeal), 2011 PTD (Trib.) 79 Fazal Ellahi v Additional Collector of Customs, MCC of PaCCS, 2011 PTD (Trib.) 987 Unique Wire Industries v Additional Collector of Customs, MCC of PaCCS, 2011 PTD (Trib.)1146 Kaka Traders v Additional Collector of Post Clearance Audit & PTCL 2012 CL 347 Pak Electron Ltd v Collector of Customs, Lahore & others.*

ATTESTED

5- No cross objection were submitted within the stipulated period given in Sub Section (4) of Section 194A of the Customs Act, 1969 either by respondent no. 1 or 2, instead para wise comments dated 11.08.2015 were submitted by Mr.Farhat Jafferi, Senior, Intelligence Officer under his own signature, which are taken for consideration with the exception of facts of the case which are admittedly the same as stated in para 2 of the order and which read as follows:

(a) The contravention case against M/s. Asif Textile Trading has been made out, as their status on Active Tax Payer List (ATL) on FBR's websites appeared as non active and suspended w.e.f. 30.06.2013 M/s. Asif Textile Trade have not denied at any stage regarding their status on Active Tax Payer List (ATL) as non active and suspended w.e.f. 30.06.2013. it is pertinent to mention that all the imports of M/s. Asif Textile Trade, stating in the contravention report,

Condition (i) SRO 1125(I)/2011 dated 31.12.2011. states as under:-

> *The benefit of this Notification shall be available only to the person doing business in textile (including jute), carpets, leather, sports and surgical goods sector, who are registered as manufacturer, importer, exporter or whole-seller under the Sales Tax Act, 1990 and appears on the Active Tax Payer list ATL) on the website of Federal Board of Revenue."*

(b) It is clearly stated in the condition that the benefit of SRO 1125(I)/2011 dated 31.12.2011 is only available if the person's name appear Active Tax Payer List

(ATL) which is the case of M/s. Asif Textile Trading, (NTN 284457) who were under suspension during that period.

(c) The contention of the appellant is in correct and mis-leading. The show cause notice has been issued in accordance with law and on the basis of evidences mentioned in the contravention report. The ONO No. 562(I)/2014-15 dated 22.05.2015 has been passed on merit and after giving opportunity of being heard to the appellant. That on checking of the said unit appeared on the website of the Federal Board of Revenue as non active and suspended Active Tax Payer List (ATL) non active status of the importer on Active Tax Payer List (ATL) is ample prove to establish beyond any doubt that the importer's imports/clearance during the suspension availing sales tax exemption as industrial manufacturer under SRO 1125(I)/2011 dated 31.11.2014 are illegal and unlawful, therefore the importer has indulge in untrue statement in respect of consignment imported during suspension period. The said act on the part of importer falls within the mischief of Section 32(1) and (2) of the Customs Act, 1969.

(d) That assertion of the importer that the case pertains to sales tax inquiry is utterly false as the action has been taken after submission of customs documents i.e. GD, to custom authority by declaring the wrong status. Due to these false statement government revenue amounting to Rs. 67,109,814/- has been evaded, hence this Directorate General had no option but to act under provision of Section 32(2), which is not confine to only customs duty but is clearly stating any duty or tax. The relevant portion of Section 32(2) is reproduced for ease of reference:

> '32(2): where, by reason of any such documents or statement. As aforesaid or by reason of some collusion, any duty, taxes or charge has not been levied or has been short levied or has been erroneously refunded, the person liable to pay any amount on that amount shall be served with the notice within 5 years of the relevant date, requiring him to show cause why he should not pay the amount specified in the notice.

(e) The importer in order to justify the evasion of taxes through mis-declaration, is trying to obfuscate the issue by raising the issue of jurisdiction of this Directorate General. It is submitted with great respect that the action taken by this Directorate has nothing to do with Sales tax Audit, rather within the power conferred to this Directorate General, action under the four corners of law has been taken to thwart the evasion of payment of taxes by the importer.

ATTESTED

(f) In this regard, reliance is placed on a judgment of the Hon'ble Supreme Court of Pakistan in the case of Baba Khan v Collector of Customs, reported as PTCL 2000 CL 688, whereby it has been ruled out that :

> *"we have carefully perused the provision of Section 32 and also Section 79 of the Customs Act, 1969. Under sub Section (1) of Section 32, if any person in connection with any matter of the customs make any declaration or statement, which is untrue in any material particular, he is guilty of an offence under that Section. No reference is made in Section 32(1) to Section 79 or that such declaration or misstatement is made in the Bill of Entry for an untrue declaration or statement to come within the mischief of Section 32(1),* ***the same should be untrue in any material particulars*** *and that the statement or declaration is made in "connection" with any matter of customs. The words "any matter of customs" are not restricted to bill of entry."*

Further, Hon'ble Lahore High Court in writ petition No. 1451-1455 of 2008 has held that the action of Directorate General within the port premises to be lawful. The court has held that:

> *"Section 17 read with Section 15 and 32 makes it clear that The Directorate of Intelligence can detain, seize or confiscate the goods imported or exported in contravention of the provision of Section 32 if the importer in connection with the matters of customs has signed a documents knowingly that he is misstating. In the cases under discussion, there is no*

doubt to the extent of misstatement, understatement and mis-declaration of the goods. Therefore, no doubt about the jurisdiction assigned to the said Directorate in the case of untrue statement, intentional or un-intentional, detected subsequently and law provides ample and wide power to the said authority to stop the clearance of any consignment even if that is out of charge."

Further, in terms of SRO 486(I)/2007 dated 09.06.2007, the Officer of Directorate General are quite competent to intercept, seized and investigate the mis-declared goods at any stage. In this regard reliance is placed on judgment reported as 2008 PTD1365 passed by the Hon'ble Lahore High Court, Lahore, whereby regarding exercise of powers by the Directorate General it has been held that:

"Where, there is no doubt to the extent of misstatement, understatement and mis-declaration of goods, law provides ample and wide powers to directorate of Intelligence and Investigation to stop the clearance of any consignment even if the same was out of charge- Directorate of Intelligence and Investigation has full powers to investigate even after the process of appraisement by the Customs Collectorate of it has reason to believes that the goods are mis-declared.

(g) The contention of the appellant with regard to his suspension is also misleading and contrary to the fact. The appellant has given wrong impression that M/s. Asif Textile Trading were suspended without any reason and that there is nothing on record to avail the facility of DTRE. The Sale Tax registration number of the appellant has been restored upon submission of Bank Guarantee amounting to Rs. 37,62,050.00 involved in the DTRE case. Moreover, the show cause notice regarding DTRE facility was available on records, which was produced before the Hon'ble High Court of Sindh at Karachi by the concerned department which negates the impression given by the appellant that they have been suspended without any reason. In this connection attention is invited towards the order of the Honourable High Court, directing the appellant to respond the show cause notice issued in the DTRE case. concluding para of the order is reproduced as under:

ATTESTED

> We have heard learned counsel for the parties and have perused the record. since the user ID and the sales tax registration of the petitioner has been restored, whereas copy of shoe cause notice has been placed on record which the petitioner denies to have received we would disposed the instant petition with the directions to the petitioner as respond to the show cause notice, where after the respondents may post appropriate orders by providing opportunity of being heard in this regard. Till then the impugned demand may not be recovered through coercive measures. The petitioner may be at liberty to obtain the certified copies of the documents which may be required for responding to the show cause notice petition stands disposed off"

(h) It would not be out of place to mention that irrespective of the contention of the appellant regarding their suspension, the case of Directorate General (respondent no. 1) has been made out as their status on Active Tax Payer List (ATL) FBR website appeared as non active and suspended w.e.f. 30.06.2013 M/s. Asif Textile Trade have not denied at any stage regarding their status Active Tax Payer List (ATL) as non active and suspended w.e.f. 30.06.2013. It is pertinent to mention that all the imports of M/s. Asif Textile Trade, stated in the contravention report, show cause notice and the O-in-O, pertains to the period of their suspension.

(i) It may also be added that on the same issue, another contravention report pertaining to the consignment of the same importer i.e. M/s. Asif Textile Trading cleared through MCC of Appraisement (East), Karachi was also forwarded to Collector (adjudication-II), Karachi which has already been adjudicated ordering therein to immediately deposit the short paid amount of Rs. 26,026,453/- and a penalty of Rs. 1,000,000/- has also been imposed vide order-in-original No. 73 of 2014-2015 dated 20.10.2014. A custom appeal No. K-1686/2014 against the said order was also filed before the Appellate Tribunal, Bench-II, Karachi which has already been dismissed by the Hon'ble Appellate Tribunal, Bench-II, vide judgment dated 09.04.2015.

6- Rival parties heard and case record perused along with the citation relied upon. We take up the case for decision and frame following issues for determination.

(i) Whether conduction of the Audit of the importer record comprising of documents of the Good Declaration post clearance fall within the domain of Officials of respondent no. 1 inspite availability of Section 3DD in the Customs Act, 1969 and Notification SRO. No. 500(I)/2009 dated 13.06.2009?

(ii) Whether Officials of respondent no. 1 are empowered to take cognizance in the matter relating to Section 32(1) & (2) of the Customs Act, 1969 in terms of Notification SRO No. 486(I)/2007 dated 15.06.2007 and prepare contravention report against the consignment which have undergone the process of passing of assessment/clearance order under Section 80 and 83 of the Customs Act, 1969 and Rules 438 & 442 of Sub Chapter III of Chapter XXI of the Customs Rules 2001 by the authority defined in Section 2 ibid for subsequent proceeding connected therewith, in derogation of provision of Section 193 ibid.?

(iii) Whether respondent no. 1 has been appointed as an Officer of Inland Revenue under Section 30A of the Sales Tax Act, 1990 and Section 230 of the Income Tax Ordinance 2001 to be read with Notification No. S.R.O. 776(I)/2011 dated 19.08.2011 and Section 207 of the Income Tax Ordinance, 2001?

ATTESTED

(iv) Whether respondent No. 3 has been appointed as an Officer of Inland Revenue under Section 30 of the Sales Tax Act, 1990 and Section 207 of the Income Tax Ordinance, 2001 and whether can exercise powers under the provision of Section 11 and 162(1) of the Income Tax Ordinance, 2001?

(v) Whether of respondent no. 3 was/is empowered to issue show cause notice under Section 180 for piling yet another order of Section 179 of the Customs Act, 1969 on the existing appealable order passed by the authority defined in Section 2(a) under Section 80 of the Customs Act, 1969 in derogation of the Article 13 of the Constitution of Islamic Republic of Pakistan and the law laid down by the Superior Judicial Fora?

(vi) Whether an importer at its own alter the feeding of statues and can obtain clearance of the consignment as an Active Tax Payer when website of the FBR shows contrary (Non Active Tax Payer)? Or otherwise?

7- That as regard to issue No. (i), the legislature has inserted Section 3DD in the Customs Act, 1969 through which Directorate of Post Clearance Audit has been created and its Officials had been delegated powers through Notification No. 500(I)/2009 dated 13.06.2009 for conducting audit of the importer under Section 26A of the Customs Act, 1969 which includes every aspects of the declaration made by the importer and assessment order passed by the competent authority of the Clearance Collectorate under Section 80 of the Customs Act, 1969 and Rule 438 of Sub Chapter III of Chapter XXI of the Customs Rule 2001 and upon finding discrepancy or any ambiguity in the declaration or the contravention of the law, audit observation is prepared and forwarded to the importer for clarification. If the reply fails to settle the issue, frames contravention report and forward to the Clearance Collectorate, which onward forward to the respective Collectorate of Customs, Adjudication for issuance of show cause notice under Section 180 of the Customs Act, 1969 and passing of Order-in-Original under Section 179 *ibid.* The Officials of respondent no.1 assumed the powers of Officials of Directorate General of Post Clearance Audit and conducted the Audit Post Clearance of the Goods Declaration of the appellant under Section 26A in the absence of availability of powers. The Officials of respondent no.1 are empowered to transgress the sovereign jurisdiction of DG, PCA under any circumstances as this will render the formation of DG- PCA by the legislature under Section 3DD of the Customs Act, 1969 and the powers delegated under Notification No.SRO-500(I)/2009 dated 13.06.2009 as redundant. The Tribunal has observed with great concern that the respondent no. 1 is running parallel department to the DG, PCA in derogation of Section 3DD ibid. This is not permitted under law as the said act is instrumental in creating a situation of anarchy within the different organs of FBR, which will left no stone unturned for exceeding their jurisdiction by encroaching the powers/jurisdiction of the other sovereign organs. These type of act cannot be allowed to be perpetuated under any circumstances instead have to crushed with full force in the very beginning for sustaining the integrity and independence of the different sovereign organs of FBR. We therefore, hold that the conduction of audit and preparation of contravention report by the Officials of respondent no. 1 in the instant case is without any lawful authority as such without any power/ jurisdiction. Hence, void and ab-initio *and coram non judice* stood in validated from the relied upon judgments on the said point of law by the appellant consultant / advocate in para 4(i) supra. The issue no (i) is answered in negative.

8- That as regard issue no. (ii), the respondent no. 1 drives powers for functioning within the territory of Pakistan from Notification No. 486(I)/2007 dated 09.06.2007, for

thwarting the act of smuggling and their jurisdiction is only restricted to the areas falling outside the purview of Section 9 and 10 of the Customs Act, 1969 and beyond 5 kilometers of the border of India and Iran as expressed in Section 177 of the Customs Act, 1969 and Notification No. 118(I)/83 dated 12.12.1983. The case of the appellant is of consignment which had already been cleared by the Officials of respondent no. 2 after completion of all codal formalities from the Port/terminal defined in Section 9 ibid. Therefore are lawful and legal and stood ousted from the act of smuggling as defined in Section 2(s) of the Customs Act, 1969. This least fall within the domain of the prescribed duties of the Officials of respondent no. 1. The question arise that how an under which authority they assumed the powers. For arriving at a just decision, the contravention report is perused and so the Notification No. 486(I)/2007 dated 15.06.2007 which transpired that the contravention report speaks about Section 32(1) & (2) of the Customs Act, 1969, which are for "misdeclaration / False Statement". Powers invoked under this Section 32 have not been delegated to the respondent no.1. They transgressed the powers of the authority given in Sections 32, of the Customs Act, 1969 and Notification No. SRO-371(I)/2002 dated 15.06.2002, This cannot be allowed and renders the preparation of contravention report without powers/jurisdiction due to nullity to Notification No. 486(I)/2007 dated 09.06.2007 and as such null and void, ab-initio and *corum non judice*. The representative of respondent no.1 has stated that irrespective of the provision of Section 32 and Notification the respondent no. 1 is fully empowered to report any case of evasion of duty and taxes at import stage. The emphasis laid by him is on the words "import stage" which mean at the time of clearance of the goods so imported not those which have been released/cleared under Section 83 of the Customs Act, 1969 and Rule 442 of Sub Chapter III of Chapter XXI of Customs Rules, 2001. The case of the appellant least corresponds to the "import stage" instead "post clearance". Therefore, the Officialss of respondent No. 1 have no powers to lay hand on the said case. Infact, they transgressed the powers of the authority defined in Section 32 of the Customs Act, 1969, Notification No. 371(I)/2002 dated 15.06.2002 and 486(I)/2007 dated 09.06.2007. Rendering the preparation of contravention report without lawful authority and jurisdiction and as such null and void, ab-initio and *corum non judice*. Upon passing of Assessment Order under Section 80 of the Customs Act, 1969 and Rule 438 of Sub Chapter III of Chapter XXI of the Customs Rules, 2001 and thereafter passing of Clearance Order under Section 83 and Rule 442 ibid by the authority defined in Section 2(a) of the Customs Act, 1969 and Notification No. 371(I)/2001 dated 15.06.2001, it cannot be disturbed by any authority including Officials of respondent no. 1 for preparing contravention report and connected proceedings therewith. The only course left for the subordinate of respondent No. 1 & 2 was to challenge the said orders before the Collector of Customs (Appeals) under Section 193 of the Customs Act, 1969 which empowers the Officer of respondent no. 1 in terms of Notification No. 486(I)/2007 dated 09.06.2007 to file appeals in those. They could incorporate all of their apprehensions, misreading of the facts and contravention of the provision of the Act/Rules. The Collector of Customs, upon receipt of the appeals

ATTESTED

and after going through the facts and grounds, if thinks fit that the contention of the respondent no. 1 seems to be correct and the duty and taxes had not been either not levied or short paid on the basis of the goods assessed earlier for clearance, is empowered to issue show cause notice u/s 32 ibid to the respondent (importer) as expressed in 2nd proviso to the sub Section (3) of Section 193A of the Customs Act, 1969. Instead of the prescribed method the respondent no.1 reopened the assessment/clearance order under Section 195 of the Customs Act, 1969 under which powers are either vested with the Board or the Collector of Customs. Even otherwise, when the right of appeal has been accorded by the legislature in the provision of Section 193 of the Customs Act, 1969, the provision of Section 195 is un-operational and cannot be exercised even by the authority defined therein and this has been validated by the Hon'ble High Court of Sindh in reported judgment *2014 PTD 1256 M/s. Paramount International (Pvt) Ltd, Karachi v Secretary Revenue Division* that *" department or an Officer of customs, if aggrieved, by any decision or order passed by an Officer of customs below the rank of additional collector could prefer an appeal before the Collector (Appeal) --- 1st order in original passed in the subject matter was an appealable order for both the parties, therefore option to reopen and order pass under the adjudication hierarchy was not available to the respondent no. 1. Even respondent no. 3 could not oversee or exercise any right of re-opening of any order which has been passed by an Officer lower in rank but acting as an adjudicating authority. Impugned order was set-aside and Constitution Petition was allowed."* In the instant case no appeals have been filed against the Assessment Order passed by the Appropriate Officer within the stipulated period of 30 days resultant, those attain finality and cannot be disturbed being a past and closed transaction. Therefore, the act and commission of respondent no. 1 is also in derogation of Section 193 and 195 of the Customs Act, 1969 and as such of no legal effect, hence *coram non judice*. Therefore, answer to issue No. (ii) in negative.

ATTESTED

9- As regard the issue no. (iii), upon perusal of amended Section 30A of the Sales Tax Act, 1990 by Finance Act, 2012 & insertion of Section 230 of the Income Tax Ordinance, 2001 by Finance Act, 2012. We, found that the respondent no. 1 has not even been appointed/designated as Officer of Inland Revenue by the legislature, instead Directorate General of Intelligence and Investigation- Inland Revenue, which had been delegated powers under Notification No. 776(I)/2011 dated 19.08.2011 for exercising under different Sections of the Sales Tax Act, 1990 referred in column 3 of the Notification and under Section 207 of the Income Tax Ordinance, 2001 and for overseeing the collection of withholding Tax at import stage, the Directorate General of Withholding Taxes had been established under Section 230A of the Income Tax Ordinance 2001, meaning thereby that the respondent no.1 is not at all appointed /designated as Officer of Inland Revenue. Rendering their entire act of preparation of contravention report in the matter relating to Sales Tax and Income Tax, without

powers/jurisdiction and as such *corum non judice* and this stood validated from the latest reported judgment *[(2014) 109 Tax 315 (H.C.Kar.)] Waseem Ahmed & others v FOP & another*, where it has been held in clear terms that *"unless the Officerof DGI&I)-FBR are not appointed as an Officer of Inland Revenue, powers under the different sub Section of the Sales Tax Act, 1990 can not be delegated through any SRO with that the Hon'ble High Court of Sindh declared that the act and commission taken by the respondent no. 1 in the presence of existing Section 30A of the Sales Tax Act, 1990 and Notification No. SRO 776(I)/2011 the act and commission done by the respondent no.1 in the matter of Sales Tax beyond the date of substitution of Section 30A and date of Notification is without any lawful authority"* and 2015 PTD 702 Muhammad Measum & others vs FOP & others, wherein , the Hon'ble High Court while allowing the petition and quashing the FIR observed that "mechanism and manner provided either for grant of exemption/zero rating or recovery of sales tax in case of any alleged violation was interested to the concern Commissioner Inland Revenue having jurisdiction and not with customs authority--- registration of FIR which entail penal/criminal consequences was not based on proper appreciation of law as well as condition stipulated in Notification No. S.R.O 670(I)/2013 dated 18.07.2013---Customs authority acted without any lawful authority and jurisdiction while registering FIR wherein in different Sections and penal clauses of Sales Tax Act, 1990 and Income Tax Ordinance, 2001 had been incorporated----once it was established that an authority acted without jurisdiction and in excess of lawful authority the aggrieved person was well within its right to seek quashment/annulment of FIR and proceeding from the High Court by invoking its Constitutional Jurisdiction. Hence we answered issue no. (iii) in negative.

10- That as regard issue no. (iv), upon perusal of show cause notice, it has been noticed that the respondent no. 3 has invoked Section 3, 6 & 7A, 8(1b),11, 34, 36 & 71 of the Sales Tax Act, 1990 and Section 148 of the Income Tax Ordinance 2001. The Consultant /Advocate of the appellant has strongly contended that he has also not been appointed as Officer of Inland Revenue under Section 30 of the Sales Tax Act, 1990 and Section 207 of the Income Tax Ordinance, 2001. Therefore, has no powers to proceed in the matter of Sales Tax & Income Tax under the Sections invoked in the show cause notice for short paid taxes. On the other hand the respondent no. 1 and 2 are of the opinion that the customs is empowered to collect the Sales Tax and Income Tax at import stage under Section 6 of the Sales Tax Act, 1990 and Section 148 of the Income Tax Ordinance 2001 and can also recover the Taxes under the provision of Section 202 of the Customs Act, 1969. From conscientious study of Section 30 of Sales Tax Act, 1990 and Section 228 to 230A of the Income Tax Ordinance 2001, it is observed that the legislature appoints under these Sections Officers of different organs of FBR as Officer of Inland Revenue for exercising powers under the respective Sections of the Sales Tax Act 1990 for which separate statutory Notification is issued and under different Sections of Income Tax powers by these Officials has to be

exercised as expressed in 207 of the Income Tax Ordinance 2001. In these Sections respondent No. 3 figures nowhere confirming that he is not empowered to exercise powers under Sections 3, 6 & 7A, 8(1b),11, 34, 36 & 71 of the Sales Tax Act, 1990 and Section 162 (1) of the Income Tax Ordinance, 2001. To further elaborate and settling the issue to its logical conclusion, we inscribed by referring to Section 6 of the Sales Tax Act, 1990 and 148 of the Income Tax Ordinance 2001 through which the Collectorate is empowered to collect the Taxes on the imported goods as like custom duty on the value determined under Section 25 of the Customs Act, 1969. The said Sections least empowers the Officers of Customs including the respondents to initiate adjudication / recovery proceeding for the short collected/paid Sales Tax and Income Tax either due to collusion or connivance or inadvertence, error or misconstruction. For proceeding for these type of recovery a show cause notice has to be issued under the Provision of Section 11 of the Sales Tax Act, 1990 and Section 162(1) of the Income Tax Ordinance 2001. The authority to issue show cause notice under Section 11 of the Sales Tax Act, 1990 and Section 162(1) of the Income Tax Ordinance 2001 are Officer of Inland Revenue and the Commissioner of Income Tax. The respondent no. 3 assumed the powers not vested with him. The fact of matter is Clearance Collectorate have powers to collect Sales Tax and Income Tax as duty at import stage not post importation. As regards to the plea that customs is empowered to recover the short paid amount post clearance under Section 202 of the Customs Act, 1969 is based on mistaken belief. The Clearance Collectorate could recover the amount from the amounts lying with it of the importer upon receipt of notice from the Officer of Inland Revenue and Commissioner of Income Tax under Section 48 of Sales Tax Act, 1990 and Section 140 of the Income Tax Ordinance for recovery of the adjudged amount of taxes by the competent Officer of LTU/RTO after due process of law.

ATTESTED

11- On the strength of above deliberation, it is our considered opinion that the Clearance Collectorates does have the authority to collect Sales Tax and Income Tax at import stage in the capacity of collecting agent and can recover escaped/short payment paid Custom Duty and Regulatory Duty levied on the imported goods under Section 18 of the Customs Act, 1969 under Section 202 of the Customs Act, 1969 after due process of law, but have no powers to adjudicate the cases of short recovery of Sales Tax and Income Tax u/s 11 and 162(1) ibid of the Act/Ordinance respectively. None of the respondents have the powers to recover the arrears of these Taxes at their own, unless they are in receipt of notice from the Officer of Inland Revenue and Commissioner of Income Tax u/s, Section 48 and 140 ibid. Resultant adjudication proceeding u/s 11 of the Sales Tax 1990 and Section 148 of the Income Tax Ordinance 2001 (as mentioned in the Show Cause notice) is not legal, justifiable and tenable in the eyes of the law and inconsonance with the reported/unreported judgments incorporated here-in-below:

M/s. AGP (Pvt) Ltd v Additional Collector of Customs , Karachi reported at 2011 PTD (Trib) 110, it was held that:

> *"Escaped 'advance tax' cannot be followed and/or recovered by the 'customs Officials' under the powers conferred upon them under Section 148(5) (6) of the Income Tax Ordinance 2001, rather it is the Commissioner of Income tax who under Section 162 of the Income tax Ordinance 2001 can follow and collect the short recovery of any tax chargeable under Section 148(5)(6) of the Income Tax Ordinance 2001."*

12- Similarly, the Customs Appellate Tribunal, Islamabad Bench in the case of M/s. Global Marketing Services & another, v Model Customs Collectorate & another reported at PTCL 2010 CL 564 held that, only the Commissioner of Income Tax can exercise his powers under Section 162 of the Income Tax Ordinance 2001, on account of default or non-payment of tax or if there is a lapse on the part of collecting officer, it could not be said that the collecting Officer can himself automatically presume the jurisdiction of recovery of amount of Income Tax on the basis of assumption or being the Officer of Customs or as a collecting Officer under Section 148 of the Income Tax Ordinance, 2201, until the specific powers have been given to him under the law. Hence, it is observed that the Collector of Customs do not have the authority to recover the Income Tax later on but he is only getting the power of collection of tax under Section 148 of the Income Tax Ordinance, 2201 therefore mere collection does not mean that he can go for the recovery at the later stage, if he default is made by the persons. To whom the amount of Income Tax is due, the best possibility of recovery according to scheme of law is that after realizing the amount of Income Tax in form of audit or investigation, the collecting Officer can refer the matter t to the Commissioner of Income Tax for taking the action of recovery under Section 162 of the Income Tax Ordinance 2001. This is also a settled principal of law that a person cannot be tried on the same offence by two forums, he could be tried only where the clear cut provisions of law are available, therefore, in my opinion Section 148 of the collection to the Customs Department and the power of recovery in case of default under Section 148 of the Income Tax Ordinance, 2001 vests with Income Tax Department and the commissioner of Income Tax as prescribed can go for recovery. The power to collect the advance Income Tax under Section 148 (5) of the Income Tax ordinance, 2001 cannot have the effect of converting Income Tax into Customs duty. Merely providing the manner of collection of tax as an advance tax under any tax enactment, the nature of the tax could not be changed, hence, the short recovery of any tax collectable under Section 148 (5)(6) of the Income Tax Ordinance 2001 to a person in form of short collected short levied or not so collected, either on account of mis-declaration of the importer, or , on account or error, or in-advertence or under mistake, vests with the Commissioner of Income Tax along under Section 162(I) of the Income Tax ordinance 2001. The Collector of customs do not have the authority to go for the recovery, it is the only the Commissioner of Income Tax alone under Section 162(1) of the Income Tax ordinance, 2001. The Collector of Customs do not have the authority to go for the recovery, it is the

only commissioner of the Income Tax who can start the proceedings of recovery against the person in case of default on short collected, short levied or not so collected, either on account of mis-declaration of the importer, or on account or error, or inadvertence or under mistake, so the adjudication by the respondent's to the point of recovery of Income tax against the appellants is not legal, justifiable and not tenable in the eye of law and the exercising of jurisdiction on this point by the respondent and also the adoption of recovery procedure by them are hereby seaside. It is declared that the respondent's wrongly assumed the jurisdiction on the show cause notice and over the corrigendum, therefore, their exercise of jurisdiction was not legal justifiable and also not within the four corners of law. It is further declared that the respondents action/procedure for recovery to recover the amount of Income Tax from the appellants is also not legal, vide ab-initio without any legal jurisdiction/authority and the same is also against the mandatory provision of law. This judgment was challenged before the Islamabad High Court through Customs Reference No. 01/2010 by the Collector of Customs, Islamabad and was dismissed by the order dated 15.05.2013, while answering all the questions in negative and against the petitioner. Similarly, Bench-I of this Tribunal held in reported judgment 2014 PTD (Trib.) 299 M.I. Traders v Additional Collector of Customs held that:

> *"It is my considered opinion that respondent does have the authority to collect sales tax, Income Tax and Federal excise duty at import stage. In the capacity of collecting agent and not empowered to adjudicate the cases of short payment/recovery due to any reason as expressed in respective Sections of the Acts/Ordinance, hence the contention of the respondent representative that customs is empowered to adjudicate the cases of sales tax, income tax and Federal Excise Duty is not legal, justifiable and tenable in the eyes of law. Instead void and ab-initio and corum non judice."*

13. In the issue similar to subject appeal the Hon'ble High Court of Sindh held in reported judgment 2004 PTD 801 Al-Haaj Industrial Corporation (Pvt) Ltd, Peshawar v Collector of Customs (Appraisement) that, it already stand decided that merely by providing manner and time of collection of tax under any tax enactment, the nature of the tax shall not be changed, meaning thereby that if advanced tax under Section 50(5) of the Ordinance can be collected as customs duty and can be recovered by the Customs Officials under Section 202 of the Customs Act, 1969 it will not change the nature of the tax and the income tax shall not become the custom duty... the power to collect the advanced income tax under Section 50(5) of the Ordinance by the Collector of Customs, shall not have the effect of converting the income tax into customs duty and consequently the customs Officials shall be empowered by virtue of the provision contained in the income Tax and Customs Act, merely to collect the determined amount of tax and shall not have the Authority to resort the chargeability or assessment of a tax. When the income tax shall not be changed into customs duty, the

applicability of Section 156 of the Customs Act, 1969 shall be excluded as a logical conclusion. Similarly, the Division Bench of High Court of Sindh in an unreported case of *M/s. Lucky Cement Ltd v Federation of Pakistan and others* through judgment dated 26.02.2013 in C.P. No. D-216/2013 set-aside and quashed the proceeding emanating out of FIR registered under the Customs Act, 1969 before the Court of Special Judge Customs and Taxation, Karachi by exercising the jurisdiction under Article 199 of the Constitution. The FIR in the matter has been registered for the alleged evasion of advanced Income Tax liable to be deducted at import stage. Inspite of reaching to the conclusion that the petition was liable to pay advance tax at import stage, held in para 25 to 28 that, the FIR has been registered by invoking clauses (14), (14A) and (77) of Section 156(1) of the Customs Act. Now clause (14) makes a criminal offence of a violation of Section 32(1) and clause (14A) makes a criminal offence of a violation of Section 32A(1) provides as follows: "if any person, in connection with any matter of customs...." And then follows the prescribed acts that are criminalized in clause (14). Section 32A(1) opens as follows "if any person, in connection with any matter related to customs...." And again, then follow the prescribed acts that are criminalized in clause (14A). it will be seen that it is of the essence in each case that the offence should have been committed in connection with any matter of or relating to customs. In our view, this essential element is entirely, and necessarily, missing in the present case. Whatever is done in terms of Section 148 is in connection with or relating to income tax and not to customs. The jurisdiction conferred on the Collector of customs is obviously only by way of administrative convenience. He is a creature of the Customs act and is empowered and obligated under that statute to collect, and if necessary recover and enforce, customs duty. The 2001 Ordinance (like the 1979 Ordinance) found it expedient to empower him to a carefully limited extent in respect of collection of advance income tax. But the fact that the Collector of Customs is dealing with such collection does not make the matter of it a matter of or relating to customs. It remains and retains its character of being a matter exclusively of income tax. Since a key element laid down at the very beginning of Sections 32 and 32A is entirely (and necessarily) not applicable in relation to Section 148, it follows that no offence under the former provisions could be made out for the purposes of clauses (14) and (14A) of Section 156(1) of the Customs Act in respect thereof. Clause (77) of Section 156(1) has three sub clauses of which only the first could conceivably apply in the present case, this provides as follows (emphasis supplied). If any person counterfeits, falsifies or fraudulently alters or destroys any declaration, statement or documents in the transaction of any business relating to the customs or any seal, signature, initials or other mark made or impressed by any Officer of customs in the transaction of any business relating to customs" [he then commits an offence]. As the portions emphasized indicate, the same reasoning applies in relation to clause (77) as just noted in relation to Section 32/clause (14) and Section 32A /clause (14A), therefore, it likewise follows that no offence under this clause could be made out in respect or for purposes of anything done in relation to Section 148. It is also pertinent to note that in the FIR, itself, in para

No. 9 where the nature of the offence has to be stated, it is noted as follows: "attempt to evade Income Tax @ 5% amounting to Rs. 44795897/- through fraudulent documentation by misusing exemption". Thus, even the customs authorities themselves expressly recognize that the matter was one relating solely and exclusively to income tax and not to anything in relation to or in connection with customs. This serves to further confirm the conclusions already arrived at. In view of the foregoing, we are of the view that the customs authorities had no jurisdiction to register the FIR under the customs Act in relation to the petitioner's claim that it is not obligated to pay advance income tax and in any case, that matter being entirely in relation to income tax could not be an offence under any of the three clauses of Section 156(1) that have been invoked. It follows that the FIR is a nullity and completely contrary to law. It cannot e sustained and is liable to be quashed in view of the foregoing position. It is not necessary for us t examine the matter on the merits in relation to the FIR.

14- The Hon'ble High Court of Sindh in reported judgment 2014 PTD 1963 Shujabad Agro Industry (Pvt) Ltd v Collector of Customs and 8 others held that:

> *"the customs authorities has no powers under law to restrict release of 'duty paid consignment' on the plea that imported goods were liable to be assessed at the rate of 5% of 'advance tax' [prescribed for one's own manufacturing used] and not at reduced rate of 3% of 'advance tax' [prescribed for industrial used]. Such act of custom authority was without jurisdiction and lawful authority. Custom authorities under law were merely collection agent on behalf of Inland Revenue Department for collection of 'advance tax'. Denying refusal of the consignment on the pretext that income tax is payable @ 5% as against 3% on the basis of reduced rate certificate issued by the Commissioner of Inland Revenue is not only arbitrary, mal-fide but also without any jurisdiction, hence illegal, void and ab-initio".*

ATTESTED

15- The opinion formed further stood validated in addition to the above referred judgments from the judgments of 1994 CLC 1612, 1990 PTD 29, PTCL 2005 CL 500 & PTCL 2007 CL. 535 and -- in PTCL 2007 CL 535 titled as Collector of Sales Tax & Federal Excise v M/s. Qasim International Container Terminal Pakistan Ltd, it was held that, there is a clear distinction between the charging provision of Statute and the machinery part thereof. It is axiomatic that mode of manner of recovery does not alter, the nature of tax nor a tax can be introduced or import by implication. It has been held in another judgment of Hon'ble Lahore High Court, Lahore PTCL 2009 CL .75 titled as *Xen Shahpur Division vs Collector of Sales Tax (Appeal), Collectorate of Customs, Federal excise and Sales Tax , Faisalabad, -*

> *"That fiscal law is to be applied with full authority and its natural meaning—one has to look merely at what is clearly said and there is no room for any intendment—neither there is equity about a tax nor presumptions as to tax – nothing is to be read in, nothing is to be implied -- one can only look fairly at the language used"*

16- The Hon'ble Supreme Court of Pakistan in reported *judgment PTCL 2008 CL 337 titled as DGI&I & others vs Al-Faiz Industries (Pvt) Ltd & others* held that, "*If the law have prescribed method for doing a thing in a particular manner such provision of law is to be followed in letter and spirit and achieving or retaining the objective of performing or doing of a thing in a manner other than provided by law would not be permitted--- each and every words appearing in a Section is to be given effect and no other word is to be rendered as redundant or surplus – when the legislature required the doing of a thing in a particular manner then it is to be done in that manner and all other manner or modes of doing or performing that things are barred -- if the doing of a thing is made lawful in a particular manner the doing of that thing in conflict with the manner prescribed will be unlawful as per maxim "Expression facit cessare tacitum"*. We, therefore hold that the exercise of jurisdiction on this point by the respondent No. 3 is also without lawful authority and jurisdiction. Hence, issuance of show cause notice and passing of Order-in-Original is ab-initio void and as such *coram non-judice* and answered the issue no. (iv) in negative.

17- That as regard to issue no. (v), it is observed that the consignments corresponding to the instant appeal had been undergone the procedure of assessment / clearance order under the provision of Section 80 and 83 of the Customs Act, 1969 and Rule 438 & 442 of Customs Rules, 2001 by the authority define in Section 2(a) of the Customs Act, 1969 in exercise of the powers conferred upon by the Board through Notification No. SRO-371(I)/2002. These orders were appealable and could be assailed either by the importer or the Officerof customs under the provision of Section 193 of the Customs Act, 1969 within 30 days of the orders. In these cases it was upon the Officials of respondent no.1 and 2 to file appeals, which was infact not filed to this date, resultant, those attained finality through limitation and could not be disturbed by any authority as held in reported judgment *1989 MLD 4310 M/s. World Trade Corporation v Central Board of Revenue*, wherein their lordship of High Court held that "if the order has attained finality through limitation. A fortiori; the Central Board of Revenue could not open up an order that has attained finality, under the Sea Customs Act, 1878 and against which *sou moto* revision lay under the Act". Inspite of the law laid down, the respondent no. 3 opted to issue show cause notice dated 26.11.2014 under Section 180, while exercising power under the provision of Section 179 ibid., to which he was not empowered because his act is tantamount to piling upon yet another order on the existing assessment orders passed by the competent authority under Section 80 of the Customs Act, 1969 in each Goods Declaration as held by Hon'ble High Court of Sindh in reported judgment *2004 PTD 3020 M/s. Smith Kline French v Pakistan* that "once an order is passed, which attain finality the same cannot be subject to a show cause notice again, considering that no appeal or revision is filed against the first order". By virtue of non filing appeals by either respondent no. 1 or 2 against the assessment

order passed against each Goods Declaration within the stipulated period the transaction stood past and closed and attained finality and could not be disturbed through subsequent order-in-original because this is not permitted under law. Additionally, the said exercise is also an act of *"double jeopardy"* barred under Article 13 of the Constitution of Islamic Republic of Pakistan. Therefore, we hold that the Order-in-Original dated 22.05.2015 passed by respondent no. 3 are not only arbitrary, illegal but mala-fide and without any lawful authority. Hence void and ab-initio by virtue of being in derogation of the law laid down by the Superior Judicial Fora and Article 13 of the Constitution of Islamic Republic of Pakistan. The issue No. (v) is answered in negative.

18- That as regard to issue No. (vi). It is to be noted that the word "assessment" denotes every aspects of goods declaration including description, quantity , value, PCT & applicability of Notification No. 1125(I)/2011 dated 31.12.2011. Therefore, the representative of the respondent no.1 was confronted that which column of the Goods Declaration contains false declaration, the answer was none. He was then asked that why Section 32(1) & (2) were invoked, the reply was amazing that due to the status of the appellant company, which is alleged to be "suspended/appearing as Non Active Tax Payer ", he was then asked that in which column of the GD the said fact is mentioned and whether an importer can file a Good Declaration for clearance of the goods, when his status in the FBR and WeBOC Portal appears as "suspended", the answer was in negative. He was again confronted with the query that whose job is to confirm from the Portal of FBR that an importer appears as "Active Tax Payer or Non Active Tax Payer", the reply was the Officer of Clearance Collectorate attending the Good Declaration for passing assessment order under Section 80. This proves that no misdeclaration in material particular in any aspect had been made by the appellant in the Goods Declaration. The feeding of the status of an importer in the portal of the FBR rest with the Commissioner of Inland Revenue and likewise of Active Tax Payer in the list by the FBR itself and these facts has nothing to do with the declaration. However, in support of the allegation the representative of respondent no. 1 was directed to place any incriminating evidence proving that the appellant is instrumental in removing the status of his unit from "suspended" and the list of "Non Active Tax Payer "in terms of Article 117 & 121 of Qanoon-e-Shahdat (10 of 1984), because to bring home the allegation rest on the shoulder of the person leveling the allegation. He was dumb-folded and admitted that none of the Tax Payer including the appellant have any access in the software of FBR and therefore cannot manipulate the status fed by the FBR and the WeBOC regime and likewise the status of "Non Active Tax Payer" to "Active Tax Payer". Lastly, Bench asked him whether he has in possession in any material for negating the submission made by the appellant in fact No. "(c to f)" and ground No. (xvi) of memo of appeal his answer was in negative. In case the Sales Tax Registration of an importer is suspended by the Commissioner Inland Revenue, the said effect is fed in the

web page of FBR by PRAL as soon as the importer log WeBOC, his home page shows that along with the authority who ordered suspension. By virtue of the fact he is not able to transmit Goods Declaration, unless his registration is not removed from the list of suspended unit and placed on operational. In the case of the appellant, there was no such indication on his page containing message for him and likewise on the page of his clearing agent. Resultant, his clearing agent transmitted Goods Declaration for the clearance of the imported goods and those were duly attended by the subordinate of respondent no. 2, after conduction of examination in terms of Section 198 and Rule 435 for passing of valid assessment /Clearance Order under Section 80 and 83 of the Customs Act, 1969 and Rule 438 and 442 of Customs Rules, 2001, in the capacity of Adjudicating Authority defined in Section 2(a) of the Customs Act, 1969 in exercise of the powers delegated upon them through SRO 371(I)/2002 dated 15.06.2002, after checking the status of the appellant on the webpage of FBR as "Active Tax Payer", and this fact stood validated from the annexed Goods Declaration at pages 30 to 96 as Exhibit "F to F67" of Memo of Appeal. The respondent no. 3, charged the appellant for mis-declaration under the provision of Section 32 of the Customs Act, 1969 merely on the basis of assumption/presumption that at the time of transmitting Goods Declaration his Sales Tax Registration was suspended and therefore he was not in the list of "Active Tax Payer". Inspite of the said vital fact he obtained clearance of his consignments while changing his profile as "operative" and "Active Tax Payer". Although this is without any basis, if we presume that his status was as alleged by respondent no. 1, the clearance of the consignments could had not been obtained with the active connivance collusion of the Officials of PRAL posted at FBR Islamabad and Director Project Automation (WeBOC) and ofcourse respondent no. 2. Ironically, no charges have been leveled under Section 32(2) against those Officials, Inspite of standing on the same pedestal as of appellant. This act of the respondent no. 1 and 3 proves that the appellant has been met out with partial treatment by the respondents, which is not permitted under Article 25 of the Constitution of Islamic Republic of Pakistan, and the law laid down by the Superior Judicial Fora in reported judgment PTCL 2005 CL 138 the Hon'ble Supreme Court held that "A facility allowed to some one and denied to other is discrimination". The Apex Court further held in reported judgment 2010 SCMR 431 that:

> *"Doctrine of equality, as contained in Art. 25 of the constitution, enshrine golden rules of Islam and states that every citizen, no matter how high so ever, must be accorded equal treatment with similarly situated persons--- State may classify persons and objects for the purpose of legislation and make laws applicable only to persons or objects within a class--- In fact all legislations involve some kind of classification whereby some people acquire rights or suffer disabilities whereas others do not--- What however, is prohibited under principle of reasonable classification, is legislation favouring some within a class and unduly burdening others--- Basic rule for exercise of such discretion and reasonable classification is that all persons placed in similar circumstances must be treated alike and reasonable classification must be based on reasonable grounds in given set of circumstances but the same in any case must not offend spirit of Art. 25 of the Constitution."*

The issue No. (vi) is also answered in negative.

19- Being custodian of law, the courts are required to maintain the norms of justice and equity, litigants are to be respected not on account of Court's power to legalize injustice on technical grounds, but to remove injustice. By doing so, and in respectful agreement with above noted findings and ratio observed by the Superior Courts, we, therefore, hold that, orders passed during the hierarchy of customs, based on adequate breach of natural justice and law, suffers from grave legal infirmities are declared illegal, ab initio and of no legal effect on various accounts described and answered above, accordingly set aside. The appeal is accordingly allowed with no order as to cost.

20. Judgment passed and announced accordingly.

-Sd/-

(MOHAMMAD YAHYA)
Member (Technical-I)

-Sd/-

(MUHAMMAD NADEEM QURESHI)
Member (Judicial-I)

GOVERNMENT OF PAKISTAN
CUSTOMS APPELLATE TRIBUNAL
KARACHI

Appeal No. Old
Appeal No. New K-562/2015
M/s Asif Textile Trading Kasur against
Order-in-Appeal No. 562/2014-15 dated 27/07/2015 & 22/05/2015
by Collector / Customs Adj-I Karachi

Copy forwarded to:
1- M/s Asif Textile Trading Kasur
2. Collector Customs (Appeals) Karachi
3. Collector of Customs
4. The D.G Intelligence & Investigation
5. The D.G Valuation / Post Clearance Audit / Customs
6. Office Copy

Kaleem Akhtar Advocate & Mirza M. Abbas Consultant & Mcc Appraisement (west) Karachi Obaid/Miral (Advs)
FBR Karachi

9/12/2015

Assistant Registrar
Assit. Registrar
Customs Excise & Sales Tax
Appellate Tribunal
Karachi Bench

Coll. Adjd/77/588-Appl-II/DC/Asif Tex/2014