

01

IN THE HIGH COURT OF SINDH, KARACHI

Special Customs Reference Application No. 1237 /2023

1. **The Director General Customs Valuation,**
Directorate General of Customs Valuation,
Custom House, Karachi.
2. **The Director Customs Valuation,**
Directorate General of Customs Valuation,
Custom House, Karachi.

PRESENTED
On 22-06-2023
Syed Sadakat Ali Shah
Deputy Registrar (I.T.&F.)

..... Applicants

695

Versus

1. **M/s. H. M. Engineering Works,**
Plot No. E-14/3, Nazimabad No. 1,
Karachi.
2. **M/s. Usama Can,**
Plot No. C-118, Sector 32-A,
Zia Colony, Korangi
Karachi.
3. **M/s. Stamco Steel Corporation,**
Plot No. 64-M, Basement Floor,
P.E.C.H.S Block-2,
Karachi.



..... Respondents

Reference Application under Section 196 of the Customs Act, 1969

Respectfully Sheweth!

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

SCRA No. 1233 of 2023
SCRA No.1234 of 2023
SCRA No.1235 of 2023

Date _____ Order with signature of Judge _____

07.11.2023

Mr. Sardar Zafar Hussain, Advocate for the applicant.
Mr. Adeel Awan, Advocate for the respondent.

It appears that through these Reference Applications, the Applicant department has impugned judgment dated 07.04.2023, passed by the Customs Appellate Tribunal in Appeal No.K-2268/2022 and other connected matters, whereby, the respondent's Appeal has been allowed.

At the very outset, learned counsel for the department has referred to order dated 28.09.2023 passed in SCRA No.1193 of 2023 (*The Director General Customs Valuation v. Prime Trading*) and other connected matters by a Division Bench of this Court, wherein it was noted that para-10 & 11 of the impugned order refers to an altogether different description of goods, whereas, the controversy which was decided in favour of the Respondent was in respect of another type of goods. The impugned order in that Reference was set aside and matter was remanded with certain directions to the Chairman of the Tribunal.

Today, it has been noticed that in the instant matters though a different order passed by another different Bench has been impugned, however, para-10 & 11 of both the orders are verbatim same, and while confronted, Respondent's counsel submits that impugned order of the Tribunal has been rectified vide order dated 18.10.2023. Admittedly, the Rectification order has been passed after passing of the setting-aside order dated 28.9.2023 by this Court, whereas, we have gone through the order of Rectification as well and are not satisfied that any such order of Rectification could be passed in such a manner. In fact, an impression is gathered that it has been done to undo the effect of



TWO RUPEES

Rs.

2

PAKISTAN
COURT FEE

the order of this Court. Such conduct on the part of the Tribunal must be deprecated. It further appears that the two Members of the Bench which has passed the order impugned before us had failed to appreciate the facts before them which reflects that the orders are being passed by the Members of the Tribunal without appreciating the true and correct facts and with proper application of an independent mind. Rather, appears to be an act of copy pasting the facts, at least. This cannot be appreciated as it burdens the work of this Court, whereas, per settled law, the Tribunal is the last fact finding forum under the Tax hierarchy.

In view of the above facts and circumstances of the case, we are compelled to issue notice to the Chairman of the Tribunal to be in attendance before us along with relevant record of both the set of orders of the Tribunal as above and shall assist the Court as to the formation of Benches as well as conduct of the Members while hearing the Appeals specially in respect of Orders in Revisions and Valuation Rulings.

To come up on **28.11.2023** to be taken up at **11.00 AM**.

Office is directed to place copy of this order connected SCRA's.



SD- Muhammad Taseer Aftab
Judge

SD- Zulfiqar Ahmad Khan
Judge

Aadil Arab

THE HIGH COURT OF SINDH, KARACHI
CERTIFIED TO BE TRUE COPY

(MUHAMMAD SARFARAZ)
I/C: ASSISTANT REGISTRAR (COPYING)

COPY APPLIED FOR ON 28/11/17

FEES ESTIMATED ON

ESTIMATED FEES DEPOSITED ON

COPY MADE READY/CERTIFIED ON

STAMP SUPPLIED ON

COPY DELIVERED ON

URGENT/NORMAL FEES: PAGE: RS:

COPYING FEES: PAGE: RS:

COMPARING FEES PAGE: 3 RS: 30/-

TOTAL: RS: 30/-

COMPARING BY
OFFICE ASSOCIATE

(MUHAMMAD SARFARAZ)
I/C ASSISTANT REGISTRAR (COPYING)