

GOVERNMENT OF PAKISTAN
CUSTOMS APPELLATE TRIBUNAL, QUETTA BENCH,
3RD FLOOR JAMIE CHAMBER, SAHJAR, KARACHI
(ANNEXURE AT KARACHI)

Before: Hafiz Ansar Ul Haq, Chairman/Member Judicial Bench II, Lahore.
Ihsan Ali Shah, Member Technical, Bench Quetta

Customs Appeal No. Q-476/2024 / 2442

M/s. Abdul Ali S/o Sardar Muhammad,
CNIC No. 54401-3519462-0,
R/o Noor Ali Khan Pashtoon Bagh,
Quetta.

.....Appellant

(Prayers to set aside the confiscation of Curtains, Cushion Cloth 8000 Kg)

Customs Appeal No. Q-477/2024 / 2443

M/s. Abdul Habib S/o Masoom Khan,
R/o Killa Murda Kariz Chaman,
District Killa Abdullah.

..... Appellant

(Prayers to set aside the confiscation of Curtains, Cushion Cloth 1800 Kg)

Customs Appeal No. Q-478/2024 / 2444

M/s. Mohib Ullah S/o Abdul Rehman,
R/o Tahsil Chaman,
District Killa Abdullah.

..... Appellant

(Prayers to set aside the confiscation of Mix Cloth/Suiting Cloth 1850 Kg)

Customs Appeal No. Q-479/2024 / 2445

M/s. Abdul Zahir S/o Pah Khan
CNIC No. 56201-5552658-9

..... Appellant

(Prayers to set aside the confiscation of Curtain Cloth 4176 Kg)

Customs Appeal No. Q-480/2024 / 2446

M/s. Muhammad Azeem S/o Khair Muhammad,
CNIC No. 56202-2026958-7
District Killa Abdullah.

..... Appellant

(Prayers to set aside the confiscation of Curtain Cloth 4176 Kg)

Customs Appeal No. Q-481/2024 / 2447

M/s. Najam Ud Din S/o Abdul Haleem
CNIC No. 54201-1360730-3

..... Appellant

(Prayers to set aside the confiscation of Assorted Cloth Suiting/Shirt Cloth 4851 Kg)



Customs Appeal No. Q-482/2024 /2448.

M/s. Sardar Muhammad S/o Mahrban
CNIC No. 56201-2575178-1
District Killa Abdullah.

..... Appellant

(Prayers to set aside the confiscation of Cushion Cloth 990 Kg)

Customs Appeal No. Q-483/2024 /2449

M/s. Sayed Badar-ud-Din S/o Sayed Para Din, Appellant
(Prayers to set aside confiscation / redemption of conveyance / Truck and Personal Penalty)

Customs Appeal No. Q-484/2024 /2450.

M/s. Asghar Khan S/o Faiz Ullah
CNIC No. 56201-2575178-1

..... Appellant

(Prayers to set aside the confiscation of Curtain Cloth 4176 Kg)

Customs Appeal No. Q-485/2024 /2451

M/s. Abdul Salam S/o Abdul Halim
CNIC No. 54201-3792181-7
R/o Quetta.

..... Appellant

(Prayers to set aside the confiscation of Curtain Cloth 8456 Kg)

Customs Appeal No. Q-486/2024 /2452

M/s. Bah Uddin S/o Abdul Haleem
CNIC No. 54201-9822293-9

..... Appellant

(Prayers to set aside the confiscation of Curtain Cloth 4928 Kg)

Customs Appeal No. Q-487/2024 /2453

M/s. Muhammad Arif S/o Muhammad Yousaf
CNIC No. 54400-0475254-1
R/o Quetta.

..... Appellant

(Prayers to set aside the confiscation of Assorted Cloth 990 Kg)

Customs Appeal No. Q-488/2024 /2454

M/s. Juma Gul S/o Muhammad Yousaf
CNIC No. 56201-3671328-5

..... Appellant

(Prayers to set aside the confiscation of Cushion Cloth 8000 Kg)

Customs Appeal No. Q-489/2024 /2455

M/s. Abdullah S/o Ali Shah
CNIC No. 54201-24689370-5
R/o Chaman, District Killa Abdullah.

..... Appellant

(Prayers to set aside the confiscation of Mix Cloth/Cushion Cloth 4818 Kg)

Customs Appeal No. Q-490/2024 /2456.

M/s. Mohib Ullah S/o Muhammad Ali
CNIC No. 56201-2550425-5
(Prayers to set aside the confiscation of Cushion Cloth 8000 Kg) Appellant

Customs Appeal No. Q-491/2024 /2457.

M/s. Sharafuddin S/o Abdul Mannan
CNIC No. 54401-7837258-5
(Prayers to set aside the confiscation of Cushion Cloth 5152 Kg) Appellant

Customs Appeal No. Q-492/2024 /2458.

M/s. Sayed Nida Muhammad
S/o Sayed Siraj Ud Din,
(Prayers to set aside confiscation / Redemption of conveyance / Truck and Personal Penalty) Appellant

Customs Appeal No. Q-493/2024 /2459.

M/s. Sayed Rahimuddin
S/o Sayed Nooruddin,
(Prayers to set aside confiscation / Redemption of conveyance / Truck and Personal Penalty) Appellant

Customs Appeal No. Q-494/2024 /2460

M/s. Rooh Ullah S/o Molvi Muhammad Jan
CNIC No. 56201-5541159-3
R/o Killa Saifullah.
(Prayers to set aside the confiscation of Curtain Cloth 5152) Appellant

Customs Appeal No. Q-495/2024 /2461

M/s. Saddam Khan S/o Pahiddin
CNIC No. 5420-0992023-7
R/o Killa Abdullah.
(Prayers to set aside the confiscation of Curtain Cloth 5040 Kg) Appellant

Customs Appeal No. Q-496/2024 /2462

M/s. Fazal Muhammad S/o Abdul Ghaffar
(Prayers to set aside confiscation / Redemption of conveyance / Truck and Personal Penalty) Appellant

Customs Appeal No. Q-497/2024 /2463

M/s. Saifuddin S/o Abdul Manan
CNIC No. 59401-7837258-5
R/o Killa Abdullah.
(Prayers to set aside the confiscation of Suiting Cloth 5400 Kg) Appellant



Customs Appeal No. Q-498/2024 / 2464

M/s. Muhammad Shafiq S/o Meerza Khan
CNIC No. 56201-5757657-9
R/o Bandat Meerzai, Killa Saifullah.
(Prayers to set aside the confiscation of Ragin Cloth 858 Kg)

..... Appellant

Customs Appeal No. Q-499/2024 / 2465

M/s. Muhammad Ayoub S/o Meerza Khan
CNIC No. 56201-6624645-7
R/o Killa Saifullah.
(Prayers to set aside the confiscation of Shirt Cloth 3978 Kg)

..... Appellant

Customs Appeal No. Q-500/2024 / 2466

M/s. Sayed Badar Ud Din S/o Sayed Para Din
(Prayers to set aside confiscation / Redemption of conveyance / Truck and Personal Penalty)

..... Appellant

Customs Appeal No. Q-501/2024 / 2467

M/s. Ameer Hamza S/o Salah Ud Din
CNIC No. 54201-2641174-5
R/o Quetta.
(Prayers to set aside the confiscation of Aster Cloth 4614 Kg)

..... Appellant

Customs Appeal No. Q-502/2024 / 2468

M/s. Faiz Ullah S/o Abdul Rehman
CNIC No. 54203-7452000-3
(Prayers to set aside the confiscation of Cushion Cloth 5152 Kg)

..... Appellant

Customs Appeal No. Q-503/2024 / 2469

M/s. Imran Khan S/o Bashir Ahmed
CNIC No. 41409-6683673-1
R/o Shah Latif Colony, Thatta.
(Prayers to set aside the confiscation of Shirt Cloth 3725 Kg)

..... Appellant

Customs Appeal No. Q-504/2024 / 2470

M/s. Naqeeb Ullah S/o Sardar Muhammad
CNIC No. 54401-0670325-1
R/o Quetta.
(Prayers to set aside the confiscation of Aster Cloth 4614 Kg)

..... Appellant

Customs Appeal No. Q-505/2024 / 2471

M/s. Ahmed Ullah
CNIC No. 54201-1509158-5
(Prayers to set aside the confiscation of Curtains Cloth 4928 Kg)

..... Appellant

Customs Appeal No. Q-506/2024 /2472

M/s. Abdul Haleem S/o Abdul Rehman
CNIC No. 54201-9822293-9

(Prayers to set aside the confiscation of Curtain Cloth 4928 Kg)

..... Appellant

Customs Appeal No. Q-507/2024 /2473

M/s. Sher Ali S/o Muhammad Naeem
CNIC No. 54201-0939056-3

R/o District Killa Abdullah.
(Prayers to set aside the confiscation of Curtain/Cushion Cloth 4176 Kg)

.....Appellant

Customs Appeal No. Q-508/2024 /2474

M/s. Sher Ahmed

(Prayers to set aside confiscation / Redemption of conveyance / Truck @ 20% fine and Personal Penalty)

..... Appellant

Customs Appeal No. Q-509/2024 /2475

M/s. Hazrat Ali S/o Azad Khan

(Prayers to set aside confiscation / Redemption of conveyance / Truck @ 20% fine and Personal Penalty)

..... Appellant

Customs Appeal No. Q-510/2024 /2476.

M/s. Ahmed Ullah

CNIC No. 54201-1509158-5
(Prayers to set aside the confiscation of Curtain/Cushion Cloth 4928 Kg)

.....Appellant

Versus

- 1. The Collector of Customs (Adjudication)**
Customs House, Quetta.
- 2. The Collector of Customs, MCC (E&C)**
Custom House, Quetta. Respondents

Advocate Naimatullah Achakzai,
Advocate Nasrullah Kakar and
Advocate Naseebullah Khan Achakzai
Present for the Appellants.

✓ Advocate Khalid Mehmood Rajpar present for the Respondents.

Date of Hearing: 03.09.2024
Date of Order: 26.09.2024

J U D G M E N T

Ihsan Ali Shah, Member Technical, Bench Quetta: By this judgment we intend to dispose of 35 Customs Appeals Nos: from Q-476/2024 to Q-510/2024, filed against Order-In-Original No.3084/2023 dated 24.01.2024 passed by the Collector of Customs (Adjudication), Quetta. The Appeals relate to the goods as well as conveyances seized in single case No. 61-Cus/Seiz/DMJ-Nauttal/2023. These appeals were earlier decided by a Single Member Bench. On filing of References by the Reporting Agency M/s MCC (Enforcement) Quetta, the Hon'ble High Court remanded the cases to this Tribunal with the direction that these are to be heard afresh by a Division Bench. The common order of the Hon'ble High Court in all References is reproduced below:-

In the instant case from the contents of the impugned judgments and record, it is apparent that question of duty, taxes, penalty and fine exceeding five million rupees was involved and in term of Sub Section (3) of Section 194-C of the Act, the entrustment of cases/appeals to the learned Single Bench of the Tribunal is not in accordance with law, therefore, impugned judgments arising out of above customs references applications passed by the Single Member of the Tribunal are without jurisdiction Coram-non-judice, thus impugned judgments are not sustainable.

The above are the reasons of our short order dated 26.06.2024, which reads as under,

"For the reasons to be recorded later on, Custom Reference Applications No.52 to 86 of 2024 are partly allowed. The Impugned judgments dated 21-02-2024, 22-02-2024 and 02-04-2024 respectively passed by Customs Appellate Tribunal Bench Quetta are set aside being coram-non-judice and not sustainable under the relevant provision of law, consequently the cases are remanded to the Chairman concerned, who is directed to reconstitute a Bench in accordance with law and fix the cases for denovo hearing and to decide the same in accordance with law with in a



period of two months; since in the impugned judgments already Customs Appellate Tribunal had expressed his opinion, therefore, he should not be included in the Bench.
Copy of this order be sent to concerned Chairman and learned Customs Appellate Tribunal Bench Quetta for information and compliance."

Copy of this judgment be sent to the learned Customs Appellate Tribunal Bench Quetta and Chairman concerned for information and compliance in accordance with law.

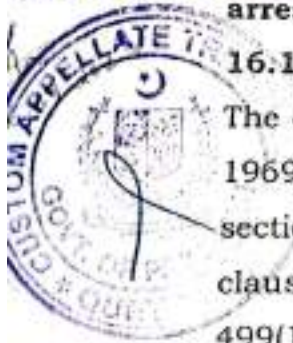
2. On receipt of the orders of the Hon'ble High Court and in compliance thereof, a Division Bench was constituted and the hearing was immediately fixed on **8th August 2024**. However no one appeared for the Appellants in the **35 connected Appeals**. Although Advocate Nasrullah Khan Kakar was present who had earlier represented all the Appellants when disposed of, by the Single Bench of learned Member (J) Quetta, however the learned Advocate stated that Power of Attorney was awaited from the Appellants. On the other side Advocate Khalid Mahmood Rajpar appeared for the respondents and filed his nomination from the respondents MCC Enforcement Quetta to defend all Appeals. He also filed consolidated cross objections which were kept on record. The hearing was next fixed for **21st August 2024**.

3. The above titled 35 (thirty five) Appeals involve 28 (twenty-eight) Appellants/ claimants of the goods whereas 7 (seven) Appellants are claimants of conveyances / Trucks. Since the matter originated from the single seizure case, therefore single Show Cause Notice was issued by the Adjudicating authority. It would suffice to refer the facts contained and charges framed in the said notice.

4. Brief facts of the case as reported by Collectorate of Customs (Enforcement), Quetta are that in pursuance of authentic information that an attempt will be made to transport the foreign origin smuggled goods from bordering area through unauthorized routes to down cities via Field Enforcement Unit, Dera Murad Jamali (Nauttal), On

11.11.2023 at about 17:55 hours the staff of Field Enforcement Unit DMJ signaled to stop **07 vehicles loaded with containers**, but the drivers sped away. Accordingly, Mr. Arif Jumani Incharge Preventive officer DMJ Nauttal informed the Hqrs: Office, Assistant Collector, Joint Control Center/JCPs and Superintendent Hqrs immediately contacted FC and Police authorities for assistance as provided under section 7 of Customs Act 1969. Customs staff of FE, Nauttal with the help of FC and local Police succeeded in intercepting the vehicles bearing Reg No. TLJ-877, TAA-051, JV-0315, TLK-944, K-2052, EA-7334, TLA-178 mounted with containers at Dera Murad Jamali. Thorough checking of all 07 vehicles / containers by the Customs staff led to recovery of below mentioned foreign origin smuggled goods. Since no proof of lawful import/payment of leviable duty and taxes as required under section 156(2) and section 187 of Customs Act, 1969 were presented, hence the said smuggled foreign origin goods were seized under section 168 of Customs Act 1969 and **the drivers of the said vehicles were arrested. An FIR No. 01-Cus/Seiz/DMJ-Nauttal/2023 dated 16.11.2023 was lodged against the accused persons accordingly.** The offence fall within the scope of section 2(s) and 16 of Customs Act 1969, read with SRO 566(1) 2005, dated 06.06.2005, further read with section 3(1) of Imports & Exports Control Act, 1950 punishable under clause 89 of section 156(1) of Custom Act 1969 read with SRO 499(1)/2009 dated 13.06.2009. The vehicles and containers having been used for the Carriage/removal of the smuggled foreign origin goods, therefore the said vehicles/containers were also seized under section 157(2) of the Customs Act 1969, under Musheernama prepared on the spot. Notices under section 171 of Customs Act 1969 were served upon the arrested drivers as well as pasted on the notice board of the FEU Dera Murad Jamli (Nauttal) under section 215 of the Customs Act 1969. Recovery memo was prepared in the presence of witnesses. Following goods were seized in the case:-

ATTESTED



S No	Description of Goods	Quantity	CIF Value
1.	i. Aster Cloth small (F/o) ii. Curtain/cushion Cloth (F/o) iii. Assorted Cloth (Net etc) (F/o)	i. 720 Rolls each roll contains 07 Kgs approx. Total 5040 Kgs ii. 302 Rolls each roll contains 28 Kgs approx. Total 8456 Kgs iii. 11 Bags each bag contains 90 Kgs approx. Total 990 Kgs Grand Total 14486 Kgs	40,213,109
2.	Curtain/cushion Cloth (F/o)	135 Rolls each roll contains 36 Kgs Approx. Total 4860 Kgs	39,844,922
3.	Cupboard old & used m/o Iron F/o	02 Nos	28,767
4.	Washing Machine Old & used	01 No	20,137
5.	Refrigerators old & used	01 No	35,520
6.	Trunk boxes old & used	01 No	20,712
7.	Cupboard empty wardrobe old & used	03 Nos	23,013
8.	Wooden Frame	01 No	5,753
9.	Flower pots Artificial	01 No	4,315
10.	Brief case old & used empty	03 No	10,356
11.	Container 40 feet EISU9080054	01 No	1,400,000
12.	i. Shirt Cloth (Medium) F/o ii. Shirt Cloth (Small) F/o iii. Shirt Cloth (Large) F/o	i. 306 Rolls each roll contains 13 Kgs approx. Total 3978 Kgs ii. 745 Rolls each roll contains 05 Kgs approx. Total 3725 Kgs iii. 310 Rolls each roll contains 36 Kgs approx. Total 11160 Kgs Grand Total 18863 Kgs	52,363,653
13.	Mix Cloth (Small) F/o	90 rolls each roll contains 09 Kgs. Approx. Total 811 Kgs	
14.	Container 40 feet EGU9013932	ONE	1,400,000
15.	Curtain / Cushion Cloth (F/o)	454 Rolls each roll contains 46 Kgs Approx. Total 20884 Kgs	172,720,302
16.	Mix Cloth (Net Cloth) F/o	02 Bags Total 115 Kgs approx.	319,246
17.	Container 40 feet CAIU8218515	ONE	1,400,000
18.	Assorted Cloth/Cushion Cloth F/o	366 Rolls each roll contains 40 Kgs Approx. Total 14640 Kgs	121,079,545
19.	Assorted Cloth Types	217 Rolls each roll contains 28 Kgs Approx. Total 6076 Kgs	1,688,965
20.	Small refrigerator (old and used)	01-No.	23,013
21.	Wooden Frame (damaged)	03-Nos	17,260
22.	Carboard boxes (F/o) (damaged/empty)	02-Nos	46,027
23.	Suit Case (empty) (old & used)	02-Nos	20,712
24.	Container 40 feet OOLU8337910	ONE	14,000
25.	Assorted Cloth (Curtain etc) F/o	464 Rolls each roll contains 36 Kgs Approx. Total 16700 Kgs	138,161,695
26.	Container 40 feet EISU9001857	ONE	14,000
27.	Aster Cloth (small)	769 Rolls each roll contains 06 Kgs Approx. Total 4614 Kgs	12,808,455
28.	Assorted Cloth/Cushion Cloth (F/o)	66 Rolls each roll contains 15 Kgs Approx. Total 990 Kgs	8,159,277
29.	Ragzin Cloth (Medium) F/o	464 Rolls each roll contains 36 Kgs Approx. Total 16700 Kgs	1,110,687
30.	i. Curtain/Cushion Cloth large size (F/o) ii. Mix Curtain/Cushion Cloth (F/o)	277 rolls each roll contains 40 Kgs Approx. Total 11080 Kgs 79 Rolls each roll contains 22 Kgs Approx. Total 1738 Kgs	52,497,433

ATTEST



		Grand Total 12818 Kgs	
31	Container 40 Feet EISU9951248	ONE	1,400,000
32	Curtain / Cushion Cloth (F/o)	224 Rolls each roll contains 44 Kgs Approx. Total 9856 Kgs	81,846,661
33	i. Assorted Cloth (F/o) ii. Assorted Cloth (Than) (F/o)	i. 189 Rolls each roll contains 16 Kgs approx. Total 3024 Kgs ii. 81 Thans each than contains 07 Kgs approx. Total 567 Kgs	9,968,609
34	i. Suiting/Shirt Cloth (Medium) F/o ii. Shirt Cloth small size) F/o iii. Suiting Cloth Mix Large F/o	i. 140 Rolls each roll contains 09 Kgs approx. Total 1260 Kgs ii. 512 Rolls each roll contains 02 Kgs approx. Total 1024 Kgs iii. 151 Rolls each roll contains 34 Kgs approx. Total 5134 Kgs Grand Total 7418 Kgs	20,592,354
35	Dry/Skimmed Milk Powder (F/o)	15 bags each bag contains 25 Kgs Total 375 Kgs	226,539
36	Container 40 Feet TRLU7420620	ONE	14,000
Total:			765,905,595

5. The seizure case was placed before adjudicating authority who issued Show Cause Notice to the owner(s)/claimant(s) of the above mentioned goods and conveyances calling upon them in terms of section 180 of the Customs Act, 1969 to show cause as to why the seized smuggled goods should not be confiscated under clauses 8 & 89 of section 156(1) of the Customs Act, 1969 and section 8 of the Foreign Exchange Regulation Act, 1947 for violation of section 2(s), 15 & 16 of the Customs Act, 1969 read with SRO 566(1)/2005 dated 06.06.2005 and SRO 499(1)/2009 dated 13.06.2009, further read with sub-section (1) of section 3 of the Imports and Exports (Control) Act, 1950.

6. The case was disposed of by the Adjudicating authority through a common order applying the decision of a separate seizure case mutatis mutandis to the instant seizure case. The main case decided in the impugned Order in Original is also reproduced below in order to appreciate the context of its applicability in the succeeding para:-

16. I have gone through the record of the case. No one has claimed the ownership of seized goods since its seizure and no one appeared before the undersigned for said seized goods



though opportunity of hearings had been afforded to meet the ends of natural justice. The case cannot be kept pending keeping in view the time constraint of thirty days for decision of cases where the provisions of clause (s) of section 2 of the Customs Act, 1969 have been invoked. Hence, the undersigned is left with no option but to decide the case on the basis of available record and merit. Therefore, I have no reason to disagree with the seizing agency that entire goods seized in the case are smuggled and have been brought into the country through unauthorized routes by evading duty & taxes; thus warrant outright confiscation. In view of this, entire goods seized in the case are accordingly confiscated outright in terms of clauses 8 and 89 of section 156(1) of the Customs Act, 1969 read with SRO 499(1)/2009 dated 13.06.2009 for violation of sections 2(s) & 16 of the Customs Act, 1969 read with SRO 566(1)/2005 dated 06.06.2005, further read with sub-section (1) of section 3 of the Imports and Exports (Control) Act, 1950.

ATTESTED



17. As for the seized vehicle, the same has been used for carriage / removal of offending goods. Therefore, it is confiscated under Section 157(2) of the Customs Act 1969. However, nothing has been placed on record by the Seizing Agency to the effect that the vehicle is hit by clause (b) of the preamble of SRO 499(1)/2009 dated 13.06.2009 or has been used repeatedly in terms of Board's letter No. 10(17)L&P/05 dated 26.06.2006.

18. The respondent for the seized vehicle also contended that the driver of the vehicle had picked up the seized goods against normal hire charges and he has no relation with the seized goods. Therefore, keeping in view the request of the respondent for vehicle that it has bona fide Status, an option under Section 181 of the Customs Act, 1969 read with clause 2(f) of SRO 499(1)/2009 dated 13.06.2009 is given to the lawful claimant/owner of the seized vehicle to redeem the same against

payment of redemption fine equivalent to 20% of the ascertained Customs Value subject to condition that the vehicle is already lawfully registered in the country with the relevant Motor Registration Authority and has not been previously used in the act of smuggling and to verify that it does not attract clause (d) of the preamble of SRO 499(1)/2009 dated 13.06.2009. The Appellate Agency is also directed to complete the verification process regarding legal status/lawful registration of the impugned vehicle and get the vehicle lab tested (FSL) to ascertain as to whether the chassis number/frame is genuine or otherwise. In case of adverse findings, necessary action may be taken accordingly. Moreover, it may also be verified whether the vehicle is required to be released by other court of law. These aspects are to be verified by the Appellate Agency before release of the vehicle.

ATTESTED



19. A personal penalty of Rs. 100,000/- Rupees One Hundred Thousand Only in terms of clause (8) & (80) of Section 140(1) of the Customs Act, 1969 is also imposed on lawful claimant/owner of the seized vehicle for carriage of offending goods.

7. The aforesaid order was made to apply mutatis mutandis in three (03) other cases vide para 20 of the impugned Order in Chapter citing that these cases had identical facts, circumstances, nature & points involved therein. The case pertaining to above table is Chapter was provided in Sr. No.3 of the table under para 2) of the impugned order which is reproduced below:

SR #	Case No.	Reference No.	Adjudication File No.	Order	Claimant/Respondent
3.	Weboc -3764-01-01-2024	61-Cus/Seiz/DMJ-Nauttal/2023	V-8(1741) Cus/Adj/2023	The documentation submitted by the Counsel pertaining to the seized cloth is deemed as afterthought, ostensibly intended to obstruct the process of investigation.	1. Shahnaz Siddiqi, S/O: Shahnaz, Pakistan; No-4024, GPO, Lahore. 2. Shahnaz Siddiqi, S/O: Shahnaz, Pakistan; No-4024, GPO, Lahore. 3. Shahnaz Siddiqi, S/O: Shahnaz, Pakistan; No-4024, GPO, Lahore. 4. Shahnaz Siddiqi, S/O: Shahnaz, Pakistan; No-4024, GPO, Lahore.



				<p>imported goods. Notably, the furnished documents lack relevance to the aforementioned seized cloth. Furthermore, the respondent has not provided any documentary trail in compliance with Rule 126 of the Customs Rules. It is noteworthy that no representative has come forward to address the matter concerning the remaining seized goods. Hence, entire quantity of seized goods is ordered to be confiscated outright in favor of the state.</p> <p>However, all seized vehicles alongwith containers are ordered to be released against payment of redemption fine equivalent to 20% of ascertained Customs. Value of each vehicle with container along with penalty of Rs. 125,000/= (on each claimant/owner of the seized vehicle) and as per conditions stipulated vide para 18 of this order. The release of containers is subject to the condition that these have -bonafide/lawful status.</p>	<p>S/o Syed Siraj-ud-Din (for vehicle TLA 178)</p> <p>i) Mohib Ullah S/o Muhammad Ali (for 10076 Kg cloth) ii) Juma Gull S/o Muhammad Yousaf (for 8000 Kg cloth) iii) Syed Rahimuddin S/o Syed Noouddin (for vehicle TLK-944)</p> <p>i) Muhammad Azeem S/o Khair Muhammad (for 4176 Kg cloth) ii) Asghar Khan S/o Faiz Ullah (for 4176 Kg cloth) iii) Abdul Zahir S/g Pah Khan (for 4176 kg cloth) iv) Sher Ali S/o Muhammad Naeem (for 4176 Kg cloth) v) Hazrat Ali S/o Azad Khan (for vehicle K-2052)</p> <p>i) Imran Khan S/o Bashir Ahmed (for 3735 Kg cloth) ii) Muhammad Ayoub S/o Meerza Khan (for 3978 Kg cloth) iii), Mohib Ullah S/o Abdul Rehman (for 6246 kg cloth) iv) Saif Uddin S/o Abdul Manan (for 5400 Kg cloth) v) Syed Badar-ud-Din S/o Syed Para Din (for vehicle TAA-051)</p> <p>i) Abdullah S/o Ali Shah (for 4818 Kg cloth) ii) Abdul Ali S/o Sarda Muhammad (for 8000 Kg cloth) iii) Muhammad Shafiq S/o Meerza Khan (for 858 kg cloth) iv). Naqeeb Ullah S/o Sardar Muhammad (for 4614 Kg cloth) v) Sardar Muhammad S/o Mahrban (for 990 Kg cloth) vi) Syed Badar-ud-Din S/o Syed Para Din (for vehicle EA-7334)</p> <p>i) Faiz Ullah S/o Abdul Rehman (for 5152 Kg cloth) ii) Abdul Habib S/o Masoom Khan (for 5543 Kg cloth) iii) Rooh Ullah S/o</p>
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					<p>Muhammad Jan (for 5152 kg cloth) iv) Sher Abed (for vehicle JV-0345)</p> <p>i). Abdul Salam S/o Abdul Halim for 8456 Kg cloth) ii) Ameer Hamza S/o Salah ud Din (for 5040. Kgcloth) iii) Muhammad Arif S/o Muhammad Yousaf (for 990 kgcloth) iv) Saddam Khan S/o Pahidin (for 4860 kg cloth) v) Fazal Muhammad S/o Abdul Ghaffar (for vehicle TLJ-877)</p> <p>All above respondents - C/o Nasarullah Kakar (Adv)</p> <p>Un-Known (for other seized goods)</p>
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8. Being aggrieved all claimants have filed separate Appeals as titled above. The claimant in 28 Appeals are for the goods and have come up with identical grounds. The main charges relate to the goods, it would therefore suffice to refer to the grounds taken by one of the Claimants / Appellants for the goods. For this purpose the grounds taken by Abdul Ah S/o Sardar Muhammad in Appeal No. 476/2024 are referred here. The grounds in the said Appeal are reproduced below:-

- ATTEST**
- (Signature)*
- A) That the impugned order in original No.3084/2023 dated 24-01-2023 passed by the learned Collector Preventive Adjudication Quetta is against the law equity and natural norms of justice as such liable to be set aside.
- B) That the appellant is innocent and has falsely been implicated in the alleged offence. The appellant is law abiding and peace loving citizen of Pakistan, the appellant attains Hon'ble respect in the society and known as honest person, hence the order impugned is liable to be set-aside and goods in question be released unconditionally.

C) That the perusal of the defective show cause notice reveals that Adjudication officer has failed to apply his mind before the issuance of defective Show Cause Notice as there were no mention of place occurrence of event and interception of foreign origin good and vehicle, hence the order impugned is liable to be set-aside and goods in question be released unconditionally.

D) That it is also important to mention here that the goods in question are legal and lawfully having all the basis of originality. On this ground alone the goods in question are liable to be released unconditionally in the favor of applicant. (COPIES OF THE LEGAL DOCUMENTS ARE ANNEXED HEREWITH)

E) That the Collector without entertaining the case of appellant passed unnatural impugned order on this ground alone the goods in question are liable to return to appellant unconditionally. . .

F) That applicant is having all the original and legal documents of the above stated goods, as such, same are liable to be released in favour of applicant.

G) That, the further custody of the above said items/goods may lose its value and may be misplace, hence the instant application.

H) That, the said items are kept in customs' custody so its instant custody has badly disturbed the whole family routine of the applicant.

I) That the subject articles are genuine and all codal formalities were carried out and no illegal items were being smuggled, as such the subject goods are required to be released.

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- J) That the mandatory provision of section 103 Cr.P.C has not been complied properly and any local person from where the vehicle has said to be detained; has not been made musher/witness in the present case of the appellant which clearly indicates the malafide of the respondents. The place of detention is not even mentioned in the impugned order which clearly indicates the malafide of the adjudicating authority.
- K) That the mandatory notice under section 171 of the custom act, 1969 has also not been served or issued to the appellant. The respondents clearly violated the mandatory provision of law and charged the appellant under provisions of the customs act which do not apply to the appellant under the prevailing circumstances of the case.
- That the respondent department has violated the mandatory provision of the section 162 and 163 of the customs act 1969 section 162 of the act, 1969 empowers any judicial magistrate on application by a gazette officer of customs to issue search warrant, but in the present case of the appellant no such proceedings have been put forth on the record which is statutory provision of law and non-compliance of the statutory provisions rendered the search illegal and of no effect.
- M) That the willful omissions and commissions of the staff of respondent have caused grave miscarriage of justice to the appellants, who without checking the actual lawful status of the vehicle, submitted a faulty seizure report and that too by reporting the seizure from Un-Known person(s).
- N) Any other ground will be produce at the time of arguments/hearing.

In light of the above legal and factual position the appellant is to respectfully pray that the impugned order No.3084/2023 passed by the lower forum confiscating outright GOODS I.E. SHIRT CLOTH (MEDIUM) 306 ROLLS EACH ROLL CONTAIN 13 KG TOTAL 3978 KG may kindly be set aside and release the goods unconditionally in favour of appellant, in the interest of law and justice.

9. The MCC filed consolidated cross objections on 8th August 2024 which are reproduced below:-

SUBMISSION OF CROSS OBJECTIONS / COMMENTS U/S 194A (4) OF CUSTOM ACT, 1969.

On behalf of the respondent No.2 above, it is respectfully submitted as under:

PRELIMINARY SUBMISSIONS/OBJECTIONS:

1. That all the above-mentioned appeals arise out of single Order-In-Original No.3084/2023 dated 24-01-2024. Hence the cross objections / comments are submitted collectively at one place here under:
2. All the above appeals have been filed without lawful / valid documents, hence the same are not maintainable on the facts, grounds and legal provisions.

1-CROSS OBJECTION

1. Briefly stated that in pursuance of authentic information received by the Collector of Customs, Enforcement, Quetta to the effect that huge quantities of smuggled goods coming from border areas through un-authorized routes will be transported to down city via Dera Murad Jamali (Nauttal). Accordingly, on 11.11.2023 at about 17.55 Hours the staff of FEU DMJ Nauttal spotted 07

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trucks with containers and signaled them to stop, but the drivers speed up and did not observe customs signal. Therefore, the In-charge DMJ Nauttal informed the Hqrs Office at Quetta where the Assistant Collector, Joint Control Center and the Superintendent Hqrs contacted the FC and Police authorities for assistance in terms of Section 7 of Customs Act, 1969. Acting succeeded in intercepting following trucks loaded with containers at DMJ Nautall and detained 04 drivers.

- i. TLJ-877
- ii. TAA-051
- iii. JV-0315
- iv. TLK-944
- v. K-2052
- vi. EA-7334
- vii. TLA-178

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The custom staff took possession of above-mentioned trucks and subjected to thorough checking which revealed presence of contraband / smuggled goods as per inventory (Annex-A)

3. Since nobody claimed ownership nor produced lawful or valid documents, therefore, Customs Staff took possession of all the 07 vehicles and goods and seized the same under Customs Act, 1969. The 04 accused persons drivers were also arrested and a FIR No.01-DMJ/Nauttal/2023 dated 16.11.2023 was lodged in the Honorable Court of Special Judge Customs, Sibi (Annex-B).

4. The inventory of goods recovered from the above mentioned trucks / containers have been prepared individually, with mention of CIF value aggregating to Rs.765,905,595/-.

5. The case was forwarded to the Adjudication Collectorate for decision, where SCN dated 05/01/2024 (Annex-C) was issued.

The claimants/ respondents filed applications for release of goods on the basis of irrelevant documents and lacking evidence of payment of duty & taxes on foreign origin goods. Due to failure of compliance of provisions of Section 156(2) & 187 of Custom Act, 1969, read with Rule-126 of Custom Rule, 2001, the adjudicating authority confiscated all seized goods while transporting vehicles were released on 20% Redemption Fine plus Personal Penalty of Rs.125,000/- each vide Order In Original No.3084/2023 dated 24.01.2024 (mutatis application vide S.No.03 of the said order.

PROVISION FOR FILING APPEAL UNDER SECTION 194-A OF CUSTOMS ACT, 1969;

(i) Section 194-A of Custom Act, 1969 provide that any aggrieved person may file an appeal before the Custom Appellate Tribunal along with relevant documentary evidence. In that instant case, none of the appellant could produce valid import GD cleared under section 79 of the Custom Act, 1969, Sales Tax Invoice presented under section 23 of the Sale Tax Act, 1990 and its trail through Sale Tax returns under section 26 read with section 73 of the Sale Tax ibid, further read with Rule 126 of the Custom Rules, 2001. The provision of section 23 & 73 of Sale Tax Act, 1990 read with section 187 of Custom Act, 1969 and SRO 499(1)/2009 dated 13.06.2009 and the violations committed of these sections of law are elaborated as under.

(ii) Sales Tax Invoices provided by the appellants are not relevant / corresponds to the seized goods in the instant case on the ground that the same is not on prescribed format as envisaged under section 23 of the Sales Tax Act 1990, besides the same is without having supporting documents like evidences of payment of leviable duties and taxes chargeable on the said Foreign Origin smuggled goods, hence the said Sales Tax Invoice cannot be treated a valid evidence.

(iii) The appellants are not actual owners of the seized/confiscated goods as they have failed to discharge burden of proof as required under section 187 of the Customs Act, 1969. Therefore, the goods were rightly seized under section 168 of the Customs Act, 1969. The provisions of section 187 of the Customs Act, 1969 are reproduced below for kind perusal and ease of reference:

"187. Burden of Proof as to lawful authority etc:-

When any person is alleged to have committed an offence under this Act and any question arises whether he did any act or was in possession of anything with lawful authority or under a permit, license or other document prescribed by or under any law for the time being in force, the burden of proving that he had such authority, permit, license or other document shall lie on him".

The evidence like Sales Tax invoices based upon which the petitioners have claimed ownership is not relevant evidence to prove lawful ownership of the seized/confiscated goods, as such the same is not on prescribed format as envisaged under section 23 of the Sales Tax Act, 1990, besides the same is without having supporting documents like evidences of payment of leviable duties and taxes chargeable on the said Foreign Origin smuggled goods, hence the said Sales Tax Invoices cannot be treated a valid evidence with regards to lawful ownership of the said goods. There is another aspect whereby the petitioner/respondents were required to fulfill the requirements of section 73 of the Sales Tax Act, 1990 and to provide the proof of payments made to the sellers through banking channel. As it is required through such provision, the payment of the amount for a transaction exceeding value of fifty thousand rupees shall be made by a crossed cheque drawn on a bank or by crossed bank draft or crossed pay order or

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any other crossed banking instrument showing transfer of the amount of the sales tax invoice in favour of the supplier from the business bank account of the buyer. The respondents have failed to provide such evidence which clearly led to conclude that the appellants are not actual/lawful owners of the said goods.

(iv) SRO.499(1)2009 dated 13.06.2009 read with SRO.566(1)/2005 dated 06.06.2005 bars the unconditional release of notified goods i.e. smuggled cloth, as no proof of lawful import as required under section 187 of the Customs Act, 1969 has been presented.

(v) The Sales Tax Invoice presented is irrelevant to the instant case and the appellants tried to give cover for smuggled cloth under the garb of said Invoice, which did not pertain to the seized goods, hence order in original No.3084/2023 dated 24-01-2024 warrants to be maintained by this Honorable Tribunal.

(vi) No truck bills, showing consigner / consignee with its destination has been produced.

(vii) It may kindly be observed that in none of the appeal the appellants have provided evidence of record keeping like import GD, Stock Register, Purchase & Sales details etc in terms of section 211 of the Custom Act, 1969 read with section 22, 23 & 26 of Sales Tax Act, 1990.

2-PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS

In all the above appeals similar/identical grounds have been taken which are rebutted as under:

A. Not correct. The appellants have submitted no substantive proof or evidence in support of claim. Thus the ground taken is un-substantiated.

B. Not admitted. The appellants have neither appended valid or legal documentary evidence to show their legitimate or registered status with their trade profile.

C. Not correct. The Show Cause Notice dated 05.01.2024 contains series of events leading to interception of seven (07) vehicles/containers by Customs authorities with the assistance of local police and FC. However, the appellants failed to discharge burden of proof required under section 187 of Customs Act, 1969 and could not prove their locus standi before the adjudicating authority.

D. Not correct. The appellants have appended no valid/legal document to prove lawful status of the Foreign Origin smuggled goods in the shape of import GD or Sales Tax Invoice or proof of purchase vis-a-vis Sales Tax returns or any banking transaction instrument.

E. Not correct. The appellants neither put forth any lawful evidence in respect of seized goods at the adjudication stage, nor have they appended such document with their appeals filed before this Hon'able forum. Their appeals are devoid of substance and lawful evidence.

F. Not correct. Not admitted. No valid/verifiable piece of evidence has been produced at any forum. Thus, the stance is incorrect.

G. The argument has no legal sanctity except a gospel lacking legal support.

H. Neither correct nor relevant with the instant case.

I. Not correct. The argument has not been supported with legal/valid and verifiable evidence as required under section

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156(2), 187 of Customs Act 1969 read with section 22,23 ,26 of Sales Tax Act, 1990. Argument is misleading.

J. Not correct. Section 103 of Cr.P.C applies only in the case where search of any place/premises is required whereas stoppage of any conveyance is dealt with under section 164 of Customs Act, 1969 which is evident in this case. Not correct. Notice under section 171 of Customs Act, 1969 (Annex-D) had been duly served upon the accused persons taken into custody. Thus the ground is un-substantiated.

L. Not correct. Not relevant. Provisions of Section 162/163 of Customs Act, 1969 are applied only where any suspicious place/godown or premises is sought to be searched. The transporting vehicles were stopped forcibly in terms of section 164 of Customs Act,1969 and seized under section 168 of Customs Act,1969.

M. Not correct. At the very outset interception and seizure of the goods and vehicles, accused persons in custody were duly inquired about ownership of smuggled goods besides consigner/consignee/destination thereof which they denied to know. Therefore, the case was initiated and Notice under section 171 of Customs Act, 1969 was duly served on the accused persons. Moreover, none of the appellants have proved their legitimacy of ownership nor such evidence has been placed on record.

N. No ground. No Comments.

PRAYERS:

On the basis of foregoing factual and legal position, it is crystal clear that the appellants in the subject matter do not have substantive evidence of claiming ownership of the impugned

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goods and owing to their failure to discharge burden of proof, this Honorable Tribunal may be pleased to dismiss the all above mentioned appeals having no legal and valid grounds / merits in the interest of justice and to the advantage of the national economy.

10. On the next hearing fixed for 21st August 2024 a panel of learned counsels represented the Appellants. In this regard a Power of Attorney was filed on behalf of one of the Appellants M/s Paizullah S/o Abdul Raheem who was appointed with Special Power of Attorney by all the rest of 34 Appellants to act on their behalf. The said authorized person further engaged the Advocates Naimatullah Achakzai Nasrullah Kakar, Mazhar Ali Khan, Naseebullah Khan Achakzai and Muhammad Iqbal Rizvi.

11. In the hearing proceedings held on 21st August 2024, the learned counsels for the Appellants reiterated the contents of Appeals Memo and assailed impugned Order in Original stressing that it was passed without consideration of the documents submitted by the Appellants before the Adjudicating authority.

12. The learned counsel from the respondents loudly pointed out that the documents being claimed were specific Goods Declaration that were submitted by the Appellants claiming that the goods were imported lawfully. The said documents were not found relevant by the adjudicating authority and the goods were held liable to confiscation out right without any option for redemption. Now in the Appeal filed before the Appellant Tribunal the Appellants have changed their stance altogether and have instead produced Sales Tax Invoices issued locally by the suppliers. The change of stance was evidently an after thought and the instant Appeals could not be entertained as the evidence being fielded was neither presented at the original level of adjudication by the applicant nor was it contested by the Seizing Agency. The learned counsel for the respondents averred that in any case the Invoices

available with the MCC were illegal and void. In this regard he asserted that the said invoices have been got verified and found that these have been issued unlawfully by the suppliers who are already black listed or suspended. He filed report as Additional Evidence in support of defense by the respondents and provided copy to the Appellants side. The said report is also reproduced below:-

SUBMISSION OF ADDITIONAL EVIDENCE U/S 194(B) OF CUSTOMS ACT 1969

In continuation of cross objections/ para wise comments submitted on 08.08.2024, this department respectfully submits additional evidences & grounds in respect of matter-in-remand vide orders dated 26.06.2024 of Honorable Baluchistan High Court Quetta.

1- That upon verification of following 4 invoices, which were never produced before adjudication authority and never contested and perused at level of ONOs, hence the same are neither relevant nor legal in eyes of law. Therefore the relevant RTOs have confirmed their status as under.

S. No.	Invoice No. & Date	Supplier Name	Remarks	Annex
1	Invoice No.P-256 dated 19.10.2023	M/s. Hadi Traders, Lahore	Black Listed w.e.f. 17.10.2022 for sales tax	Annex-A
2	Invoice No.P-259 dated 21.10.2023	M/s. Hadi Traders, Lahore	Black Listed w.e.f. 17.10.2022 for sales tax	Annex-A-1
3	Invoice No.N-029 dated 22.10.2023	M/s Nobel Corporation, Lahore.	Black Listed w.e.f. 16.06.2023 for sales tax	Annex-B
4	Invoice No.U-513 dated 24.10.2023	M/s United Traders, Lahore.	Black Listed w.e.f. 06.02.2023 for sales tax	Annex-C

2- Upon verification from official FBR website Iris.for.gov.pk, the above named suppliers are black listed. Accordingly, these persons neither can file monthly sales tax return under section 26 nor they can issue sales tax invoice as per

prescribed procedure under section 23 of Sales Tax Act of 1990.

- 3- That the claim of appellants is baseless, illegal and unlawful hence mis-led Tribunal at the time of first round before single judge, as the invoices are made base of their claims, which do not exist at all. Hence the same warrant notice by this Honorable forum as the appellants have desperately failed to discharge burden of proof as required under section 187 of Customs Act 1969,

Certificate

The respondent department solemnly affirms that the above mentioned additional evidences i.e. sales invoice in respects of goods have duly been verified and have not been filed previously in the instant matter.

13- In the light of above report the counsel further pressed upon the immediate provision of all the Sales Tax Invoices relied upon by the Appellants in order to furnish a comprehensive verification report on the said Invoices. On the direction of the Bench learned counsel for the Appellants provided signed copies of all Sales Tax Invoices to the Respondents side. The Appeals were next fixed for 04.09.2024.

14. In the hearing proceedings held on 04.09.2024 the learned counsel for the respondents / MCC filed a comprehensive verification report of the Sales Tax Invoices and provided copy thereof to the Appellants side. The said report is reproduced below:

STATEMENT
SUBMISSION OF SALES TAX VERIFICATION

It is most respectfully and humbly submitted before this Honorable Bench on behalf of answering respondents that in light of queries made by this Honorable Bench regarding

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verification of "sales tax Invoices" purportedly claimed by the appellants the same were never produced, presented or even contested before adjudication authority at the time of passing ONOs in subject case at the first instance.

Impugned "Sales Tax Invoices" as contended by the appellants have been filed in the respective appeals at the time of first round of litigations, which have been pronounced by Honorable High Court of Baluchistan, as "de-novo proceedings" as "coram-non-judice" through order dated. 26.06.2024. so for the claim of legally purchase of seized goods as SHOW CAUSE NOTICE goods is concerned, the verification of **ALL SALES TAX INVOICES**

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PROVIDED, has establish case against appellants as well in light of parallel proceedings. The details of record as per direction of this Honorable Tribunal for kind perusal that would obviously help this bench to reach at the final conclusion of the subject cases, is submitted as under.

The appellant's contention is with reference to import/support i.e.

1. Five Sales Tax invoices issued by M/s HADI TRADERS NTN. 9521707-4.
2. Five Sales Tax Invoices issued by M/s NOBEL Corporation NTN. A514730-2.
3. Three Sales Tax Invoices issued by M/s FAZAL Traders, NTN NO. 9382960-1.
4. Five Sales Tax Invoices issued by M/s UNITED TRADERS NTN 4544275-0
5. Five Sales Tax Invoices issued by M/s PROGRESSIVE TRADING, NTN, 9697454-8.
6. Three Sales Tax Invoices issued by M/s RAHEEL TRADERS NTN A802573-7.

Annexure-C. M/s **Progressive Trader**, has illegally and unlawfully claimed NTN No 96945-8, as per purported Invoice produced by claimant the original holder of NTN is **Muhammad Saddam** having CNIC No. **4230168683831** (importer/exporter/distributor, Karachi).

Annexure-D. as per record and verification M/s UNITED TRADERS bearing NTN 4544275-0 & STRN NO. 3277876258152 is registered as distributor with department since 06.02.2022 through e-portal and portal further reveals that registered person is consecutive non-filer during the period i.e. Oct-2023 to June 2024.

It is respectfully and humbly submitted before this Honorable bench being last legal & fact-finding forum as per statute, and prayed on behalf of answering respondents that the complete stance of appellants who are accused persons in main criminal case has been disproved in totality as there is no any record or any other proof or evidence for claim of seized goods, the same may be dismissed with exemplary cost of each appellant for wasting precious time of this Honorable Bench.

It is further requested to appreciate that even otherwise, apparent from fake invoices there is no any transitional trail provided for purchase of impugned smuggles goods, appellant have been repeatedly contesting that u/s 187 of the Act they have shifted the burden, now prosecute has satisfactorily proved their burden of proof wrong with every aspect. So apart from dismissing appeals, filed by a stranger unverified attorney presented through a piece of stamp paper, which has never been registered as per **POWER OF ATTORNEY ACT** before any registrar as per dictum held by apex courts sir.

15. Having filed the aforesaid verification report the learned counsel for the respondents / MCC vehemently assailed the illegality of the sales documents presented by the Appellants. It was asserted that the documents i.e. Sales Tax Invoices being relied upon have been contrived to circumvent the burden of proof for the lawful imports of the goods, emphatically pleading that the Appellants first appeared before Customs Adjudication Authority and relied upon specific import goods declarations. However, having failed to establish veracity of the claim before Adjudicating Authority they entirely changed the stance at Appeal stage and brought in the Sales Tax Invoices as proof of the local procurement from certain registered suppliers. However on verification from the concerned management of Inland Revenue Service it has also been categorically communicated and established through proper channel by the said offices that the said suppliers have either not declared the invoices in their sales tax return filed for the relevant months or they are non filers straightaway. Other suppliers have been identified to be involved in the issuance of fake and flying invoices and they are suspended/black listed since long and therefore could not even issue such invoices. It has therefore been pressed upon by the learned counsel that the verification of suppliers was fundamental step towards establishing the supply chain of the goods which could have paved the way for further verification, till its lawful import clearance was traced and established. However, the documents have failed at the basic level of verification exercise, which evidently shows that the Appellants have filed appeals with malafide and unclean hands.

16. The learned counsels further pointed out that the Appellants have not filed any counter reply on the cross objections filed by MCC / respondents on 8th August 2024. They have also not filed any counter to the verification report filed on 21st August 2024. Finally they are not inclined to file any counter reply to the comprehensive verification report filed on 3rd September 2024. It was more than enough to show that there was no any evidence and proof available with the claimants of Goods to meet the requirements of Section 156(2) and 187 of the

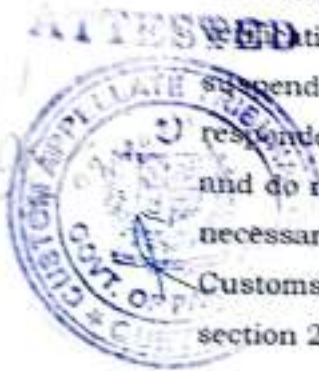


Customs Act 1969, since the goods were seized under Section 2(s) *ibid* and entailed mandatory requirement of the evidence of the lawful import. As for the conveyances seized, he further argued that the claimants of the conveyances have already been allowed relief of the redemption at the Adjudication level; therefore no further relief was warranted given that the goods were entirely smuggled and the Appellants have utterly failed to bring evidence of its lawful import. He emphasized that the Appellants have presented illegal invoices issued by the offenders of the Sales Tax Act 1990, therefore the case of conveyances is tied up with the charges established against the goods.

17. The counsels for the Appellants vociferously objected upon the verification carried out by the respondent / MCC which was deliberately restricted to the Regional Tax Offices of the Inland Revenue management. The said invoices had to be verified primarily from the respective suppliers who issued invoices on prescribed formats under Sales Tax Act 1990. Therefore the whole exercise conducted by the MCC was misdirected and thus avoid; which could not be considered valid for deciding upon the lawful claim for the goods. It was further stressed that Appellants have already discharged burden of proof by filing relevant Sales Tax Invoices showing lawful and legal channel of the procurement of the goods. The Appellants were innocent buyers and had no knowledge about the status of the suppliers under Sales Tax Act 1990. The MCC has not been able to prove that the said suppliers were not registered under the Sales Tax Act 1990, therefore the claimants have legitimate right to the custody of the goods having been locally purchased on payment against legal documents / invoices. They cannot be deprived of their lawful property in a rough shod and illegal manner based on a misdirected verification exercise.

18. We have heard both sides and perused the contents of Appeals and the impugned Order in Original. We have also gone through the cross objections filed by the respondents and the two verification reports. The impugned seized goods were intercepted laden on seven

trucks at Dera Murad Jamali. The moot point in dispute is whether or not these are smuggled goods having been brought into the country in violation of Customs Act 1969 breaching prohibition of being notified u/s 2(s) ibid and evading payment of duty & taxes leviable thereon. The seized items claimed by the above titled Appellants mostly fall into the categories of **assorted cloth, shirt cloth, aster cloth, sulting cloth, curtain cloth, cushion cloth etc.** All the claimants of goods have filed separate Sales Tax Invoice and have contended that they have legally purchased the goods from the suppliers registered under Sales Tax Act 1990. It has thus been asserted that the said Invoices provided lawful evidence of the procurement of the goods. The obvious purpose is to establish that the goods have a legal supply chain involved, thus discharging the required burden of proof. However after verification of the said Invoices all the suppliers have been found either suspended by FBR, non filers or black listed by FBR. The respondents/MCC have averred that these invoices have no legal value and do not contribute anything towards off setting the burden of proof necessary to be discharged in terms of section 156(2) & 187 of the Customs Act 1969 against the charges primarily framed in terms of section 2(s) etc. ibid.



19. The centre point in the matter is the burden of proof. In this regard the Invoices have been filed by the Appellants in support of their claim that the goods have been procured lawfully through legal channel covered under the law and rules contained in the Sales Tax Act 1990. These invoices are tabulated below to provide a concise picture showing the Appeal No., Name of Appellant, No. of Sales Tax Invoice, Date of Issuance, **Name of the Co. / Supplier** who issued the Invoice, the description of the goods purchased as claimed in the instant Appeal and finally the quantity purchased.

S. No.	Appeal No	Name of the Appellants	Sales Invoice No	Dated	Name of Company & NTN No	Goods Purchased (Description)	Quantity (Kgs)
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1	Q-476/24	Abdul Ali S/o Sardar Muhammad	U-513	24.10.23	United Traders 4544275-0	Curtain/ Cushion 200 Rolls, 40 Kgs.	8000	
2	Q-477/24	Abdul Habib S/o Masoom Khan	P-251	22.10.2023	Progressive Trading 9697454-8	Curtain Cloth 118 Rolls, 46 Kgs. Cushion Cloth 02 Bags, 58 Kgs	900 900 Total 1800	
3	Q-478/24	Mohib Ullah S/o Abdul Rehman	F-006	18.10.2023	Fazal Traders 9382960-1	Mix Cloth Suiting Cloth 90 Rolls, 09 Kgs, 151 Rolls 36 Kgs	950 900 Total 1850	
4	Q-479/24	Abdul Zahir S/o Pah Khan	303	17.10.2023	Raheel Industries A802573-7	Curtain Cloth 116 Roll 36 Kgs	4176	
5	Q-480/24	Muhammad Azam S/o Khair Muhammad	N-027	18.10.2023	Nobel Corporation A514730-2	Curtain Cloth 116 Roll 36 Kgs	4176	
6	Q-481/24	Najam-Uddin S/o Abdul Haleem	U-516	25.10.2023	United Traders 4544275-0	Assorted Cloth 189 Rolls Assorted Cloth 81 Rolls Suiting/Shirt Cloth 140 Rolls	3024 567 1,260 Total 4,851	
7	Q-482/24	Sardar Muhammad S/o Mahrban	P-257	20.10.2023	Hadi Traders 9521707-4	Cushion Cloth 66 Rolls, 15 Kgs	990	
8	Q-483/24	Syed Badar Ud Din S/o Syed Para Din	Conveyance / Truck					
9	Q-484/24	Asghar Khan S/o Faiz Ullah	302	16.10.2023	Raheel Industries A802573-7	Curtain Cloth 116 Roll 36 Kgs	4176	
10	Q-485/24	Abdul Salam S/o Abdul Halim	P-253	25.10.2023	Progressive Trading 9697454-8	Curtain Cloth 302 Roll 28 Kgs	8456	
11	Q-486/24	Hadi-Uddin S/o Abdul Haleem	326	20.10.2023	Raheel Industries A802573-7	Curtain Cloth 116 Roll 36 Kgs	4928	
12	Q-487/24	Muhammad Arif S/o Mohammad Yousaf	N-029	22.10.2023	Nobel Corporation A514730-2	Assorted Cloth 11 bags 90 Kgs	990	

13	Q-488/24	Juma Gul S/o Mohammad Yousaf	P-259	21.10.2023	Hadi Traders 9521707-4	Cushion Cloth 200 Rolls, 40 Kgs	8000	
14	Q-489/24	Abdullah S/o Ali Shah	P-256	19.10.2023	Hadi Traders 9521707-4	Mix Cloth 79 Rolls, Kgs Cushion Cloth 77 Rolls, 40 Kgs	1738 3080 Total 4,818	
15	Q-490/24	Mohib Ullah S/o Muhammad Ali	301	16.10.2023	Raheel Industries A802573-7	Cushion Cloth 200 Rolls, 40 Kgs	8000	
16	Q-491/24	SharafUdin S/o Abdul Manan	P-260	23.10.2023	Hadi Traders 9521707-4	Cushion Cloth 112 Rolls, 46 Kgs	5152	
17	Q-492/24	Sayed Nida Muhammad S/o Syed Uraj Ud Din	Conveyance / Truck					
	Q-493/24	Sayed Rehman Uddin S/o Sayed Nooruddin	Conveyance / Truck					
	Q-494/24	Rooh Ullah S/o Molvi Muhammad Jan	P-252	25.10.2023	Progressive Trading 9697454-8	Curtain Cloth 112 Rolls, 46 Kgs	5,152	
	Q-495/24	Saddam Khan S/o Pahidin	327	21.10.2023	Raheel Industries A802573-7	Curtain Cloth 116 Rolls, 36 Kgs	5040	
21	Q-496/24	Fazal Muhammad S/o Abdul Ghaffar	Conveyance / Truck					
22	Q-497/24	Saif Uddin S/o Abdul Manan	N-028	18.10.2023	Nobel Corporation A514730-2	Suiting Cloth 150 Rolls, 36 Kgs	5400	
23	Q-498/24	Muhammad Shafiq S/o Meerza Khan	U-512	23.10.2023	United Traders 4544275-0	Ragzin Cloth 26 Rolls, 33 Kgs	858	
24	Q-499/24	Muhammad Ayoub S/o Meerza Khan	F-005	17.10.2023	Fazal Traders 9382960-1	Shirt Cloth 306 Rolls, 13 Kgs	3978	
25	Q-500/24	Sayed BadarUdin S/o Sayed Para Din	Conveyance / Truck					
26	Q-501/24	Ameer Hamza S/o Salah Uddin	N-030	25.10.2023	Nobel Corporation A514730-2	Aster Cloth 720 Rolls, 7 Kgs	5040	
27	Q-502/24	Faiz Ullah S/o Abdul Rehman	U-514	25.10.2023	United Traders 4544275-0	Cushion Cloth 112 Rolls, 46 Kgs	5152	
28	Q-503/24	Imran Khan S/o Bashir Ahmed	F-009	18.10.2023	Fazal Traders 9382960-1	Shirt Cloth 745 Rolls, 05 Kgs	3725	

ATTESTED
19
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CUSTOMS APPELLATE TRIBUNAL
GOVT. OF PUNJAB

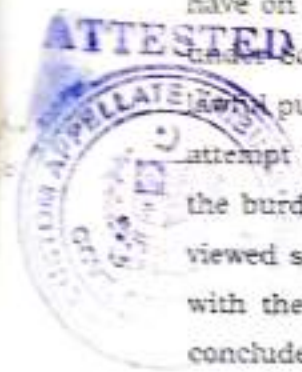
29	Q-504/24	Naqeeb Ullah S/o Sardar Mohammad	P-258	20.10.2023	Hadi Traders 9521707-4	Aster Cloth 769 Rolls, 06 Kgs	4614	
30	Q-505/24	Ahmed Ullah	P-254	25.10.2023	Progressive Traders 9697454-8	Curtain Cloth 112 Rolls, 44 Kgs	4928	
31	Q-506/24	Abdul Haleem S/o Abdul Rahman	U-515	25.10.2023	United Traders 4544275-0	Curtain Cushion Cloth 112 Rolls, 44 Kgs	4928	
32	Q-507/24	Sher Ali S/o Mohammad Naeem	N-026	17.10.2023	Nobel Traders A514730-2	Curtain Cushion Cloth 116 Rolls, 36 Kgs	4176	
33	Q-508/24	Sher Ahmed	Conveyance / Truck					
34	Q-509/24	Hazrat Ali S/o Azad Khan	Conveyance / Truck					
	Q-510/24	Ahmed Ullah	P-254	25.10.2023	Progressive Traders 9697454-8	Curtain Cushion Cloth 112 Rolls, 44 Kgs	4928	



The MCC / respondent agency have submitted detailed reports based on the official communication from the administration of Inland Revenue. In the said reports all the six suppliers have been identified who have issued Sales Tax Invoices to the claimants. The reports exhibit Annexures with relevant information on each supplier as communicated through proper channel by the senior management of Inland Revenue. The report respecting each of the supplier is summarized and tabulated below:

S #	Name of Supplier	Report From Concerned Office
1	M/s Hadi Traders	Invoices not declared in the Sales Tax Return for the month of Oct., 2023
2	M/s Fazal Traders.	Invoices not declared in Oct., 2023
3	M/s United Traders	(i) Black listed with effect from 6 th Feb., 2022, (ii) Consecutive non filer.
4	M/s Raheel Traders	(i) Got fake registration through online system. (ii) Non filer since Jan., 2024, (iii) The respective Invoices not declared in the return filed in the relevant period of Oct., 2023.
5	M/s Progressive Traders	NTN pertain to an individual. Therefore Invoices are illegal.
6	Noble Corporation	Black listed since 16.06.2023

21. A look into the table provided above under para 19 reveals that all 28 invoices submitted by 28 Appellants / claimants are concentrated between the dates 16.10.2023 to 25.10.2023. While all the suppliers have been found to be invalid, reference to the summary under para 20 above, the concentration of dates of the issuance of these invoices also undermines the case of Appellants. It lends voluminous credence to the averments by the counsel for the MCC that the said documents have been got issued from non filers & suspended / Black listed suppliers as a joint attempt by all Appellants to discharge the burden of proof that the goods are not smuggled. The suppliers have on their own turn grossly violated the substantive law envisaged under Sales Tax Act 1990. Instead of contributing to establishing the lawful purchase of the Appellants it conversely establishes the unlawful attempt by all Appellants in resorting to illegal means for discharging the burden of proof by way of misleading evidence which cannot to be viewed softly. In the light of foregoing we don't see anything available with the Appellants to discharge the burden of proof. We therefore conclude that the charges framed by the Seizing Agency are firmly established. Accordingly all the Appeals are dismissed.



22. Judgment passed and announced accordingly.

Sd/-

(Hafiz Ansar Ul Haq)
Chairman/Member Judicial
Bench-II, Lahore

Sd/-

(Ihsan Ali Shah)
Member Technical
Quetta Bench

23. The Judgment consists of thirty-six (36) pages and each bears my initials.

GOVERNMENT OF PAKISTAN
CUSTOMS APPELLATE TRIBUNAL
BENCH QUETTA

Sd/-

(Ihsan Ali Shah)
Member Technical
Quetta Bench

Q-476/24 to 510/24, 30/11/24 of
vs. Ahsan Ali & others against
Customs 30/11/23, 24/11/24
by LAY of customs.
Compl. forwarded by
1. Mr. Ahsan Ali & others
2. Collector of Customs - Quetta
3. The S.O. Intelligence & Investigation / S.O. Quetta / S.O. Quetta
4. The S.O. P.O. Karachi / FC, Quetta.
5. Other Copy.

Col. Lou/DMS - 24/11/23

26/11/24
Registered
Quetta

Dated

16/11/23