

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN, QUETTA

Custom Reference Application No.05 of 2025
(CC # 100107800084)

The Collector of Customs (Enforcement) Custom House, Airport
Road, Quetta.

Vs.

Faiz Muhammad & another

Date of hearing: 18.11.2025 Announced on: 26.11.2025

Applicant by: Mr. Abdul Qahir Khan, Advocate

Respondent No.1: Mr. Hamza Khan Achakzai, Advocate.

J U D G M E N T

Sardar Ahmad Haleemi, J. This Custom Reference is directed against the judgment dated 14.10.2024 (hereinafter the “**impugned judgment**”) passed by learned Customs Appellate Tribunal (Member (Judicial)/Chairman (hereinafter the “**appellate Tribunal**”), whereby the order in original dated 06.11.2020 has been modified to the extent of local Suzuki pic-up bearing Registration Plate No.CH-8410- (Karachi) and the same was unconditionally released to its owner.

2. Succinct facts of the instant case are that on 11.09.2020, the FC 80-Wing Ghazaband Scouts received information regarding a vehicle bearing registration No.CH-8410 (Karachi) allegedly carrying foreign-origin smuggled Hashish/Charas. The vehicle was intercepted by FC staff at around 1530 hours and brought to Customs Check Post Baleli on 12.09.2020 at 1300 hours. Upon inspection, Customs officers discovered specially designed cavities in the floor of the

vehicle containing contraband. The vehicle and seized narcotics were taken into custody through Seizure Report No. 133-Cus/Seiz/Bli/2020 dated 13.09.2020, prepared in the presence of witnesses. The accused Saifullah was arrested. A Show Cause Notice under Section 171 of the Customs Act, 1969 (**'the Act, 1969'**), was issued by registered post to the accused and pasted on the notice board of Baleli/Hqrs. MCC, Quetta. Subsequently, an FIR was also lodged.

3. Learned Additional Collector of Customs (Adjudication) Custom House, Quetta confiscating the vehicle and contraband out rightly, under clauses 89(ii) (c) of Sections 156(1), 157(2), 2(s), and relevant SROs 566(I)/2005 dated 06.06.2025 and 499(I)/2009) dated 13.06.2009 r/w sub-section (1) of section 3 of Imports and Exports (Control) Act, 1950, read with section 6,7,8 Control of Narcotics Substances Act, 1997 punishable under section 9(c) of Act, 1997 vide Order-in-Original No. 151/2020 dated 06.11.2020.

4. Respondent No.1, feeling aggrieved by the said order, filed Custom Appeal No.Q-825 of 2023 before the Appellate Tribunal, which was allowed vide judgment dated 14.10.2024, whereby, the Order-In-Original dated 06.11.2020 passed by learned Collector (Adjudication), Quetta was modified to the extent of local Suzuki Pick-up bearing registration No.CH-8410 (Karachi) and released unconditionally to its law owner.

5. Learned counsel for the applicant inter alia contended that the vehicle contained specially designed false cavities and was used for transportation of foreign-origin smuggled Hashish/Charas,

which is a serious violation under the Customs Act, 1969, and SRO 499(I)/2009, prohibiting release of such vehicles; that the learned Tribunal did not consider the material evidence including the FSL Report ER No.FSL/CCP/0845 dated 18.12.2020, which established tampering of the chassis number, thus rendering the vehicle liable for confiscation; that the burden of proof under Section 187 of the Customs Act, 1969, regarding lawful import, was not discharged by the respondent. No lawful ownership or import documents were produced; that the vehicle qualifies as a notified item under SRO 566(I)/2005, and therefore is liable for outright confiscation under clause 89(ii)(c) of Section 156(1) of the Act 1969; that the release of the vehicle amounts to disregard of law and procedure, undermining the purpose of anti-smuggling provisions and SROs designed to prevent misuse of vehicles for narcotics transportation. Learned counsel for the applicant relied upon the case of Collector Model Customs Collectorate, Customs House Gwadar at Gaddani v. Abdul Raheem (2021 PLD (Balochistan) 1035).

6. Conversely, the learned counsel for respondent No.1 controverted the contentions of learned counsel for the applicant and contended that the registered owner had no knowledge or involvement in the smuggling of narcotics, and the vehicle was in the hands of third parties at the time of seizure; that the Investigating Officer has failed to place on record any material to show specially designed cavities in the vehicle with intention to smuggle; that the FSL report of tampered chassis numbers does not automatically link the owner to

illegal activity; proof of knowledge or complicity is essential for confiscation; that the learned Custom Authority had failed to substantiate the involvement of the owner in the occurrence, thus confiscation order was legally incorrect; that the appellate Tribunal has appreciated the fact that mere presence of smuggled goods in the vehicle is insufficient for penal consequences. Lastly, supported the impugned order.

7. We have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

8. A perusal of the record reveals that in pursuance of the added proviso of Section 181 of the Act, 1969, the Federal Board of Revenue issued various orders/SROs, which expressly prohibit the release of vehicles used in the transportation of smuggled goods concealed in false cavities. For convenience, the preamble of Clause (b) of SRO 499(I)/2009 dated 13.06.2009 is reproduced, which reads as follows:

“Lawful registered conveyance including packages and containers found carrying smuggled goods in false cavities or being used exclusively or wholly for transportation of offending goods under Clause (s) of Section 2 of the Customs Act, 1969 (IV of 1969)”.

9. It appears from the contents of the show cause notice dated 21.10.2020 that the notice was issued to the unknown claimant/owner of the vehicle in question, whereas it is alleged that narcotics were concealed in specially designed cavities in the floor of

the said vehicle, thus the learned Additional Collector (Adjudication), Quetta had confiscated the narcotics along with the vehicle outright vide Order-in-Original dated 06.11.2020. However, the Appellate Tribunal reversed the findings to the extent of confiscation of the vehicle and released it unconditionally to its lawful owner on the account of smuggled/confiscated goods (i.e., narcotics) were freely available in the market and that the import of smuggled goods was not banned in the country. The findings rendered by the Appellate Tribunal are contrary to law and the record. Section 72 of the Act, 1969 imposes restrictions on import and export of narcotics, and it amounts to smuggling in terms of the Act, 1969.

10. Moreover, learned counsel for the applicant pointed out that the forensic report regarding the vehicle clearly indicates that the chassis number of the said vehicle has been tampered with; as such, the findings of the appellate Tribunal's decision, on this pivotal aspect, are completely silent, thus the impugned decision is non-speaking.

11. A perusal of the impugned judgment reflects that the appellate Tribunal did not dilate upon this critical aspect; therefore, the release of the vehicle amounts to disregard of law and procedure, undermining the purpose of anti-smuggling provisions and SROs designed to prevent misuse of vehicles for narcotics transportation. As a sequel to the above facts and circumstances, it is concluded that the findings rendered by the appellate Tribunal are perverse, arbitrary and contrary to the law and record.

For the above reasons, the Customs Reference No.5 of 2025 is partly allowed, and the matter is remanded to the learned Customs Appellate Tribunal, Special Bench, Quetta. The Customs Appeal No.Q-825/2023 is deemed pending, and the Customs Appellate Tribunal, Special Single Bench, Quetta, is directed to provide an opportunity to the parties to place on record any relevant documents(if opted), and after hearing the arguments of the learned counsel for the parties, decide the appeal on merits by following the law.

Copies of this order be transmitted to the learned Customs Appellate Tribunal, Quetta, in accordance with law.

Announced in open Court:
Quetta, on 26th November, 2025

JUDGE

JUDGE.