

TaxHelpline 2013/215

SUPREME COURT OF PAKISTAN

Civil Petitions Nos. 410-L- and 434-L of 2010; decided on 14th June, 2013. (On appeal from the judgment dated 24-12-2009 passed by the Lahore High Court, Lahore in Custom Reference Nos. 30 and 35 of 2009). Date of hearing: 14th June, 2013.

Present: Tassaduq Hussain Jillani and Muhammad Ather Saeed, JJ

Mian Abdul Ghaffar, Advocate Supreme Court for Petitioners. Sh. Izhar-ul-Haq, Advocate Supreme Court for Respondents.

NAEEM TRADERS

vs

COLLECTOR OF CUSTOMS and others

ORDER

This judgment shall dispose of Civil Petitions Nos. 410-L and 434-L of 2010 as the issue raised in both these petitions is similar.

2. Learned counsel for the petitioners submits that the learned High Court fell in error in not appreciating that the Chairman of the Appellate Tribunal in terms of sections 3-A and 4 of the Customs Act, 1969 can constitute as many benches consisting of single Member as he may deem necessary to hear such cases and that subsection (4) of section 194-C specifically provides that the Chairman or any other Member of the Appellate Tribunal authorized in this behalf by the Chairman can signally dispose of a case which has been allotted to the bench of which he is a Member and this is subject to subsections 4(a) and (c) of section 194-C. Adds that the impugned judgment is likely to, make the afore referred provisions of law redundant.

3. Learned counsel for the Customs Department who was on Watching brief defended the impugned judgment. However, in all fairness on court query he could not controvert that the issue requires detailed arguments.

4. Having heard learned counsel for the petitioners and for the Customs Department,

leave is granted inter alia to consider whether in converting the Tax References into Writ Petitions and remanding the case for decision afresh the learned High Court has misconstrued the provisions of sections 194-C, 3-A and 4 of the Customs Act; whether the impugned judgment has the effect of making the afore-referred provisions of law redundant and whether in absence of any question of law having been raised in the Reference, could the Reference be entertained and converted into a Writ Petition?

Leave granted



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