SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Miangul Hassan Aurangzeb

C.P.L.A.5420/2025
(Against the order dated 13.11.2025 of the Peshawar High Court, Peshawar passed in Custom Reference No. 261-P of 2025)

AND

C.M.A.15792/2025
(Stay application)

Collector of Customs (Enforcement), Model Customs Collectorate, Custom House, Peshawar

... Petitioner/Applicant

Versus

Azad Shah and others

... Respondents

For the Petitioner/Applicant:	Syed Hamad Hussain Shah, ASC a/w Aurangzeb, Superintendent
For other Respondents:	Nemo
Date of Hearing:	08.10.2026

ORDER

Muhammad Shafi Siddiqui J.- This petition for leave to appeal under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, is directed against the judgment dated 13.11.2025 passed by the Peshawar High Court, whereby the petitioner's challenge to the order of the Customs Appellate Tribunal permitting release of the vehicle against payment of redemption fine was dismissed.

2. The facts giving rise to the present petition are that, on 16.02.2025, a Hino Mazda truck bearing Registration No. TKK-500 was intercepted at JCP Tunnel, Kohat, and foreign-origin spare

parts were recovered therefrom. The driver, respondent No. 1, failed to produce documents evidencing their lawful import. The goods were seized under section 168 of the Customs Act, 1969 (hereinafter referred to as the 'Act'), while the vehicle was seized under section 157(2) thereof. The adjudicating authority ordered outright confiscation of the goods and the vehicle. The Collector of Customs (Appeals) dismissed the appeal. However, the Customs Appellate Tribunal, through its judgment dated 30.07.2025, modified the order to the extent of permitting release of the vehicle against redemption fine equivalent to 40% of its appraised value. The High Court maintained that order.

3. The controversy concerns the Tribunal's jurisdiction to allow redemption of the vehicle in the face of the restrictions imposed by the Federal Board of Revenue (the "Board") under section 181 of the Act. Section 157(2) makes a conveyance used in the movement of goods liable to confiscation, whereas section 181 provides for an option to pay a fine in lieu of confiscation. The latter discretion is, however, subject to its first proviso, which empowers the Board to specify goods or classes of cases in which such an option shall not be given. The distinction is material as liability to confiscation under section 157(2) does not, by itself, confer a right to redemption contrary to a restriction imposed under section 181.

4. In exercise of the aforesaid power, the Board issued S.R.O. 499(I)/2009 dated 13.06.2009. Clause (b) excludes from redemption lawfully registered conveyances, including packages and containers, found carrying goods in false cavities or used wholly or exclusively for transporting goods involved in smuggling. The redemption rates in the table appended to the notification

cannot be read independently of that exclusion or invoked to circumvent it. In *Bashir Ahmad*[1], this Court held that where the Board has excluded a class of conveyances from redemption, the Tribunal has no jurisdiction to order their release against payment of fine.

5. The notification was subsequently amended through S.R.O. 1280(I)/2024 dated 20.08.2024, which introduced a limited, conditional relaxation for certain conveyances falling outside clause (b), seized for first or second time. That relaxation was rescinded by S.R.O. 1619(I)/2024 dated 03.10.2024, which introduced clause (ba) in respect of lawfully registered conveyances, including packages and containers, other than those falling under clause (b), if seized and found carrying smuggled goods. In *Director, Intelligence and Investigation (Customs), FBR, Peshawar*[2], this Court considered the amendments and reaffirmed that the temporary relaxation did not dilute the prohibition imposed by the notification. It further held that the plea that a vehicle was hired for public transport could not override the express statutory restriction, which otherwise made no such distinction.

6. The present seizure took place on 16.02.2025, after the insertion of clause (ba). The Tribunal itself proceeded on the basis that the vehicle was lawfully registered, while the adjudicating authority had found the recovered goods liable to confiscation for want of documents evidencing lawful import. The question of redemption, therefore, had to be determined under the notification

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[1] Bashir Ahmad v. Director, Directorate of Intelligence and Investigation (Customs), FBR, Peshawar (2025 SCMR 684).

[2] Director, Intelligence and Investigation (Customs), FBR, Peshawar v. Muhammad Ishaq (2026 SCMR 885).

as amended and not merely by reference to the asserted use of the truck for carrying goods for hire. The Tribunal's reliance on that circumstance, without giving effect to the applicable statutory restriction, was legally unsustainable. The High Court likewise erred in maintaining the order.

7. For the foregoing reasons, this petition is converted into an appeal, and the same is allowed. The impugned judgments of the High Court and the Customs Appellate Tribunal are set aside, and the order of the adjudicating authority directing outright confiscation of the vehicle is restored. The listed CMA is accordingly disposed of.

Chief Justice

Judge

Judge

Islamabad, the
8th October, 2026
Approved for reporting
[Simra Sohail, L.C]