

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

**SCRA No. 949 of 2024**

| Date | Order with Signature of Judge |
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1. For order on Office Objections
2. For orders on CMA No.4238 of 2024
3. For hearing of Main Case.
4. For orders on CMA No.4239 of 2024.

**14.04.2026**

Mr. Pervaiz Ahmed Memon, Advocate for the Applicant.

Following questions of law are proposed for determination:

- i. Whether in the facts and circumstances of the case the Appellate Tribunal has not erred in law to conclude that provisions of Section 2(s) and 16 are not mentioned in SRO 486(1)/2007 dated 07.06.2007, therefore, all actions initiated by the Directorate General are void having no legal effect?
- ii. Whether in the facts and circumstances of the case, the Appellate Tribunal has not erred in law in holding that the Show Cause Notice was not given to the appellant (1st Respondent herein) within the prescribed limit per Sub Section (2) of Section 168 of the Customs Act, 1969?
- iii. Whether in the facts and circumstances of the case, the Appellate Tribunal has not erred in law to hold that the case was adjudicated beyond the statutory prescription of 30 days as provided under the 1st Proviso to Sub Section (3) of Section 179 of the Customs Act, 1969?
- iv. Whether in the facts and circumstances of the case the Appellant (1<sup>st</sup> Respondent herein) has not failed to successfully discharge burden of proof of lawful possession as envisaged under clause 89) of Sub Section (1) and Sub Section (2) of Section 156 read with Section 187 of the Customs Act 1969?
- v. Whether the Appellate Tribunal being the last fact finding forum has not failed to perform its functions as required under the provisions of Section 194-B(1) of the Customs Act, 1969 and has not passed impugned judgment unilaterally based on misplaced judgments of superior court as well as misinterpretation of the relevant provisions of the Act, 1969, thus liable to set aside?

Learned counsel states that Order-in-Original was time barred, therefore, no question remains to be determined by this Court. He relies upon the order dated 16-02-2026 passed in SCRA No. 950 of 2023, same reads as follows:

- “1. Deferred.
2. Exemption granted subject to all just exceptions.

3&4. It is demonstrated that Order-in-Original was time barred. Page 97 of the court of which is final page of the order of the learned Collector wherein it is merely stated that extension in completion of adjudication

proceedings had been given by the office, record is devoid of such extension and any particulars or reasoning in such regard as available, hence, no case is made out to entertain such a concession. The issue of limitation insofar as adjudication is concerned has been addressed by the Supreme Court time and time again including five member Bench of the Supreme Court in *Wak Limited Multan Road Lahore vs. Collector Central Excise and Sales Tax Lahore (now CIR, LTU Lahore)* reported as 2025 SCMR 1280. Para 13 of the impugned judgment reads as under:

“13. The order under Section 179(3) has to be passed within 120 days from the date of issuance of show cause notice or within further extended period of 60 days by the Collector of Customs upon availability of “exceptional circumstances” and recording of those prior to expiry of initial period of 120 days after serving notice to the person concerned as held in reported judgment 1998 SCMR 1881 *Khalid Mahmood v Collector of Customs, Custom House, Lahore*. In the instant case show cause notice to the appellant was issued on 26.06.2012 and order by the respondent should have been passed on or before 24.10.2012 i.e. prior to expiry of initial period of 120 days, no extension was obtained by the respondent No.2 under sub Section 4 of Section 179 of the Customs Act, 1969, prior to expiry of initial period of 120 days i.e. 24.10.2012, or entire period of 180 days i.e. 23.12.2012. Instead extension was sought by the respondent after expiry of entire period of 180 days as evident from the Board's letter dated 18.07.2013. The Board was not available with the powers to extend the period after lapse of stipulated period given in sub Section 3 of Section 179 of the Customs Act, 1969 as held in the reported judgment referred in para 4(xi) supra. We therefore hold that the order passed by the respondent No.2 is without lawful authority and jurisdiction and not enforceable under law.”

Learned counsel states that the aforesaid order is squarely binding on this court, hence, the present reference application may be dismissed as withdrawn. Order accordingly.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969”

Learned counsel for the applicant states that this Reference application may be disposed of for the same reasons and on the above terms. Order accordingly.

A copy of this decision may also be sent under the seal of this Court and signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Judge

Judge

Shaban