

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
SCRA No.380 of 2020

---

Date	Order with signature of Judge
------	-------------------------------

---

Hg Case

1. For order on CMA No.1562 of 2020
2. For hearing of CMA No.1564 of 2020
3. For regular hearing

**27.09.2023**

Mr. Khalid Rajpar, Advocate for the applicant  
Ms. Dil Khurram Shaheen, Advocate for respondent No.1

-0-0-0-

1]. Admittedly this Reference Application is time barred inasmuch as the impugned order was served upon the applicant on 1.4.2020 whereas the Reference Application has been filed on 30.7.2020. The Limitation period is 90 days under Section 196 of the Customs Act, 1969. On the last date of hearing, applicant`s counsel had sought time to assist the court as to the condonation of such delay.

On perusal of the affidavit filed in support of this application under Section 5 of Limitation Act, 1908, it appears that a very generic stance has been taken that the delay was caused due to Covid-19, without detailing any dates or period which is to be condoned. There is no other supporting material except this statement to seek condonation, whereas, even the general enlargement of time as notified by this Court due to COVID-19 was up to 29.5.2020 as informed by the Applicants Counsel. In fact, the Applicant department has miserably failed to convince this Court for seeking any condonation on the above ground; nor the supporting affidavit justifies it.

Per settled law, the Court having jurisdiction to entertain a case after expiry of limitation has to apply its mind in considering the request for condonation after going through the facts of the case. There is no general rule or precedent that in each and every case, where the Government interest or revenue is involved, the delay must necessarily be condoned. We may mention here that the question of limitation being not mere a technicality cannot be taken lightly and the rights accrued to the other party due to limitation cannot be snatched away without

sufficient cause and lawful justification which are lacking in this case<sup>1</sup>. The concerned department must know that delay of limitation in filing of proceedings can only be condoned if it is sought for on sufficient grounds otherwise in absence thereof no special indulgence can be shown to such department because it is well-settled that no preferential treatment can be offered to the Government department or autonomous bodies. Their cases have to be dealt with same manner as the cases of an ordinary litigant/citizen<sup>2</sup>. This Court has repeatedly laid down that so far as the limitation is concerned, the Government cannot claim to be treated in any manner differently from an ordinary litigant. In fact, the Government enjoys unusual facilities for the preparation and conduct of their cases and its resources are much larger than those possessed by ordinary litigants<sup>3</sup>.

In view of such position, we do not see any cogent reason to entertain such an application for condonation of delay; hence, the application is dismissed, and as a consequence thereof, this Reference Application being hopelessly barred by time is hereby dismissed along with pending application/s.

JUDGE

JUDGE

Mush/ps

---

<sup>1</sup> (2006 S C M R 1248) Govt. of PAKISTAN V. MALBROW BUILDERS, CONTRACTOR.

<sup>2</sup> (PLD 2002 SC 436) CHAIRMAN, DISTRICT EVACUEE TRUST, JHELUM V ABDUL KHALIQ

<sup>3</sup> (1996 SCMR 727) FEDERATION OF PAKISTAN V JAMALUDDIN and others