

Order Sheet  
IN THE HIGH COURT OF SINDH KARACHI  
**Special Customs Reference Application No. 504 of 2020**

Date	Order with Signature of Judge
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Hearing/priority

- 1.For order on office objection No.26&28
- 2.For order on CMA No.2052/20
- 3.For hearing of main case
- 4.For order on CMA No.2053/20

**30.09.2025**

Mr. Khalid Mehmod Rajpar, advocate for applicant

Tracking Report is placed on record. The question framed for determination is reproduced as under :-

*“Whether in consideration of the facts and circumstances of the case the learned Appellate Tribunal was justified to condone delay of forty seven (47) days in filing of Customs Appeal No.H-1077 of 2019 under Section 194-A of the Customs Act, 1969?*

Learned counsel states that the impugned judgment cannot be termed as a speaking order as it deals with the essential question of limitation in a perfunctory manner. Learned counsel argued that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of limitation otiose<sup>1</sup>.

The Superior Courts have consistently maintained that it is incumbent upon the Courts to first determine whether the proceedings filed there before were within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard<sup>2</sup>. The Superior Courts have held that proceedings barred by even a day could be dismissed<sup>3</sup>; once time begins to run, it runs continuously<sup>4</sup>; a bar of limitation creates vested rights in favour of the other party<sup>5</sup>; if a matter was time barred then it is to be dismissed without touching upon merits<sup>6</sup>; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance<sup>7</sup>. It has been maintained by the honorable Supreme Court<sup>8</sup> that each day of delay had to be explained in an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed.

<sup>1</sup> *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.

<sup>2</sup> *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.

<sup>3</sup> 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.

<sup>4</sup> *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.

<sup>5</sup> *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.

<sup>6</sup> *Muhammad Tufail Danish vs. Deputy Director FIA* reported as 1991 SCMR 1841; *Mirza Muhammad Saeed vs. Shahabudin* reported as PLD 1983 SC 385; *Ch Muhammad Sharif vs. Muhammad Ali Khan* reported as 1975 SCMR 259.

<sup>7</sup> *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.

<sup>8</sup> *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.

Learned counsel referred to the impugned judgment to demonstrate that the issue of limitation had prima facie not been dealt with in accordance with settled law. Learned counsel stated that it may be just and proper that the impugned judgment be set aside and the matter may be remanded back to the learned Tribunal for adjudication afresh. He further stated that the learned Tribunal may be pleased to adjudicate upon the issue of limitation at the very onset and any request for the same to be condoned be deliberated in the light of settled law. 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, 1069.

Judge

Judge

Ashraf