

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1024 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection No.26
- 2. For orders on CMA No.4567/2024
- 3. For hearing of main case
- 4. For orders on CMA No.4568/2024

14.10.2025

Mr. Madan Lal, advocate for the applicant

On the last date, i.e. 07.10.2025, following order was passed:

“The impugned judgment demonstrates that the appeal was time barred by fifty four days. When confronted, learned counsel expresses inability to assist. At his request, to come up on 14.10.2025.”

Today also, learned counsel remains unable to assist on the said count and insists that the matter ought to have been decided on merit and not on a mere technicality of limitation.

It is the considered opinion of the Court that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of limitation otiose¹. 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 regard². The Superior Courts have held that proceedings barred by even a day could be dismissed³; once time begins to run, it runs continuously⁴; a bar of limitation creates vested rights in favour of the other party⁵; if a matter was time barred then it is to be dismissed without touching upon merits⁶; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance⁷. It has been maintained by the honorable Supreme Court⁸ 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. It is pertinent to observe that the preponderant bar of limitation could not be dispelled by the applicant.

¹ *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.
² *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.
³ 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.
⁴ *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.
⁵ *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.
⁶ *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.
⁷ *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.
⁸ *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.

While various questions had been proposed in the pleadings, they were *prima facie* argumentative and / or sought to agitate factual controversy. Not a single question was proposed to deal with the determinant factor in the impugned judgment, being limitation. In view hereof, it is observed that no question of law for determination has been articulated before us to entertain this reference, hence, the same is hereby dismissed in *limine*.

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.

Judge

Judge

B-K Soomro