

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 648 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
------	----------------------------------

1. For hearing of CMA No.2713/2020
2. For order on office objection No.25
3. For hearing of CMA No.2714/2020
4. For hearing of main case.
5. For hearing of CMA No.2715/2020

16.09.2025

Mr. Zulfiqar Ali Arain, advocate for the applicant

1. This reference application is pending without any progress since 2020. Admittedly, it is time barred and this application has been filed seeking for the delay to be condoned. Despite repeated requests, learned counsel for the department remains unable to assist with the cause or justification thereof. 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

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.

an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed. The Supreme Court has consistently maintained that no preferential treatment is to be meted out to the Government in respect of limitation qua civil matters⁹.The Supreme Court has observed in *Nadeem H Shaikh*¹⁰ that the law assists the vigilant, even in causes most valid and justiciable. The fixation of cases before benches / courts entails public expense and time, which must not be incurred more than once in the absence of a reason most genuine and compelling. Default is exasperating and such long drawn ineptitude cannot be allowed to further encumber pendency of the Courts. In view hereof this application is hereby dismissed.

2 till 5. Consequently, this reference application and pending application/s are dismissed as being time-barred.

Judge

Judge

Amjad

⁹ Per *Iftikhar Muhammad Chaudhry J* in *Chairman Railways vs. Muhammad Sharif Javaid Warsi* reported as *PLD 2003 SC 6*.

¹⁰ Per *Qazi Muhammad Amin Ahmed J.* in *SECP vs. Nadeem H Shaikh & Others* (*Criminal Appeal 518 of 2020*); Order dated 27.10.2020.