

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Special Customs Reference Application 10 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection No.26
2. For orders on CMA No.173/2020
3. For hearing of main case
4. For hearing of CMA No. 174/2020

22.09.2025

Mr. Muhammad Khalil Dogar, advocate for the applicant
Mr. Rana Sakhawat Ali, advocate for respondent

The reference arises from judgment dated 16.10.2019, rendered in Customs Appeal No.H-1301/2018. The operative part is reproduced herein below :

“A perusal of the case file shows that despite of the fact that notices were issued and received by the appellant, the appellant has failed to put in his appearance for the last 3 dates consecutively which shows his lack of interest in perusing the matter. The reader of Court also submitted that he has also informed the appellant telephonically about the date of hearing. I have also gone through the case file which shows that the present appeal is barred by 09 days for which no plausible explanation has been made. More over the department has failed to submit 2nd FSL report and also unable to prove a verified charge against the respondent. In view of above the present appeal is dismissed for non prosecution as well as on merits. The department is directed to release the vehicle of the respondent forthwith and without any further delay which was detained on account of the pendency of the present appeal.

Learned counsel for respondent states that the department’s appeal before the learned Tribunal was prima facie time-barred and the same fact has been recorded. He further states that the appeal was also dismissed on account of non-prosecution. Learned counsel for the applicant submits that while there are observations with regard to limitation and non-prosecution in the impugned judgment, the appeal has also been dismissed on merits. He states that the three grounds invoked are mutually inconsistent and if appeal was considered untenable on merits than the same ought to have been adjudicated in the very least.

It is jointly submitted that in view of the inconsistency in the impugned judgment the same may be set aside and the matter may be remanded back to the learned Tribunal for adjudication afresh. It is further sought that the issue of limitation be considered by the Tribunal or the very onset prior to adjudication of any other issue. In view hereof, the impugned judgment is set aside and the matter is remanded back to the learned Tribunal for adjudication afresh.

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