

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA No. 162 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.1673/2026. (Urgent)
- 2. For orders on CMA No.1674/2026.(Exemption)
- 3. For hearing of main case
- 4. For hearing of CMA No.1059/2024 (Stay)

20.08.2026

Mr. Agha Shahid Majeed Khan, advocate for the applicant

The operative part of the impugned judgment reads as follows:-

"07. All the arguments / facts of the case as elaborated by the Appellant arguments / facts, and merits of the case can only be addressed when the and as given in the Order-in-Appeal are perused. However, all these primary issue of the time bar is justified/decided.

08. After going through the timeline of the case, it has transpired that there is a delay of 30 days in the filing of the appeal. This is a significant delay which is largely due to the Department's side, where these limitations are to be strictly adhered to. It is also a settled proposition that law helps the vigilant and not the indolent and after the expiry of the limitation period, a vested right is created in favour of the other side. This view finds support in the decision rendered by the Hon'ble Supreme Court in the case of M/s SKB-KNK Joint Venture Contractors through the Regional Director Vs. Water and Power Development Authority and others (reported as 2022 SCMR 1615) wherein it was held that:-

"the limitation cannot be taken as a mere technicality as by expiry of period of limitation, valuable rights accrue to the other party".

09. In another case, namely The Collector, Land Acquisition, Chashma Right Bank Canal Project, WAPDA, D.I. Khan, and others Vs. Ghulam Sadiq and others (reported as 2002 SCMR 677), the Hon'ble Supreme Court of Pakistan dismissed the appeal filed by the Government with a delay of seven days by quoting a number of judgments of the Hon'ble Apex Court by observing that no application. sufficient cause was shown in the condonation application.

10. The Department needs to be more vigilant in these issues as a Law Enforcement Agency, it is their prime responsibility to follow the law in letter and spirit. Moreover, the insult to the injury is not filing any condonation application. Even, when this tribunal asked about the justification for this delay and gave time to file the justification/condonation application. However, again and in complete disregard of the objections raised, no justification has been filed. It also shows inefficiency on the part of the concerned Collector in the allocation of work to the subordinate officers and his failure to properly monitor the same. This causal attitude / action is completely undesirable from the Department if they are really interested in following their cases. This delay/ needs a proper enquiry.

11. I am of the view that MCC has not been able to justify this huge delay of 30 days rather no justification has been given during hearing by DR. It becomes clear that Appellant displayed indifference to the time limitation issue. The Appeal cannot be admitted without proper justification. Accordingly, the titled appeal is dismissed on the point of time bar.

12. A copy of this order is to be sent to the Chief Collector (Enforcement), Islamabad and Member (Operations), Islamabad, for information.”

The impugned judgment clearly takes the view that not only was the appeal time barred, but also no application seeking for the delay to be condoned was filed. This factum is not being disputed. The entire reliance is on a mere line in the memorandum of appeal filed before the learned Tribunal, which suggests that true copy was received by the collectorate on a later date. Even this is not corroborated with anything whatsoever. In such circumstances, a mere bald assertion cannot be construed as sufficient to override the issue 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

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.

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.

It is settled law that question of limitation has to be addressed by the court at the very onset, each day of delay has to be justified by the applicant. *Prima facie* the same was not done before the learned tribunal. Since no question of law has been articulated meriting invocation of reference jurisdiction, hence, the reference application is dismissed alongwith pending applications.

A copy of this decision may also be sent under the seal of this Court and signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(10) of the Customs Act, 1969.

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Judge

Judge

Ayaz p.s.