ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 81 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For order on CMA No. 639/25.
2. For hearing of main case.
3. For hearing of CMA NO. 640/25.

<u>02.09.2026</u>

Sardar Zafar Hussain, advocate for the applicant.

Following questions had been proposed for determination:-

i. Whether the learned Tribunal has failed to appreciate while passing impugned order that the order-in-original dated 26.03.2024 has attained finality, as the respondent intentionally complied with aforesaid order on 20.08.2024 and took delivery of impugned goods after making payment of duty, taxes and redemption fine which is sufficed to establish that the respondent is not prejudiced by aforesaid order dated 26.03.2024?

ii. Whether on the facts and circumstances of the case, the learned Customs Appellate Tribunal has fallen in error while passing the impugned order without condoning inordinate delay of 35 days, in terms of section 5 of Limitation Act read with section 194-A (3) of the Customs Act, 1969?

Learned counsel demonstrates that pursuant to order for the substituted service, service has been effected through publication and the relevant excerpt of the newspaper is on file.

Learned counsel states that the issue of limitation is of paramount importance and it is settled law that it has to be decided at the very outset as seen from the judgment of honourable Supreme Court in *Florida Builders case.* Learned counsel states that impugned judgment has completely disregarded and has not addressed the issue of limitation, therefore, on such ground alone the impugned judgment cannot be sustained. Learned counsel also states that the learned Tribunal failed to consider that the appeal was infructuous as the Order-in-Original had attained finality after having been complied without any resolution whatsoever. Learned counsel states that *inter alia* on the ground as above, the impugned judgment is unsustainable, hence, it would be in the interest of justice and revenue for impugned judgment be set aside and the matter be remanded back to the Appellate Tribunal for adjudication afresh. Order accordingly.

A copy of this order 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(10) of the Customs Act, 1969.

Judge

Judge

Ayaz p.s.