

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No.556 of 2022  
CP No.D-1308 of 2023

---

Date	Order with signature of Judge(s)
------	----------------------------------

---

1. For orders on CMA No.2244/2023.
2. For orders on office objections No.1, 8 & 24
3. For orders on CMA No.3097/2022.
4. For hearing of main case.
5. For orders on CMA No.3098/2022.

**15.05.2023**

Mr. Pervaiz Ahmad Memon, advocate for the applicant in SCRA No.556 of 2022.

Mr. Imran Iqbal Khan, advocate for the petitioner in CP No.D-1308 of 2023.

3. Granted; subject to all just exceptions. 1,2,4&5. The applicant has assailed the judgment of the learned Customs Appellate Tribunal at Karachi dated 30.05.2022 in Customs Appeal K-3621 of 2021 ("Impugned Order"), however the present reference is *admittedly* time barred.

An application has been preferred seeking for this Court to condone the delay; premised entirely on the plea that the department had misread the time / date stamp signifying when the certified copy of the Impugned Order was served thereupon. It was argued by the applicant's counsel that limitation is a *mere technicality* and this Court ought to condone the delay on such ground and determine the matter on merit.

We have perused the record and the date of receipt of the Impugned Order is manifest therefrom. *Misreading* of the date is a feeble excuse at best and, respectfully, we find ourselves unable to accord any sanction in such regard. Even if the excuse was to be entertained, the reference is time barred by a further day. Notwithstanding the foregoing, the applicant's counsel remained unable to articulate any rationale as to why the department would wait out the entire limitation period to file the reference. Learned counsel was queried as to whether any departmental inquiry was ordered to determine the reasons for delay in preferring this reference, however, he responded in the negative.

The requirements of limitation are not *mere technicalities* and disregard thereof would render entire law of limitation otiose<sup>1</sup>. The Courts have consistently maintained that it is incumbent to first determine whether the proceedings filed were within time and such an exercise ought to be conducted by the Court regardless of whether or not an objection has been taken in such regard<sup>2</sup>. It has been maintained by the honorable Supreme Court<sup>3</sup> 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, however, in the present circumstances no reasonable explanation appears to have been pleaded and / or articulated.

---

<sup>1</sup> *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as *LDA vs. Sharifan Bibi* reported as 2019 MLD 249; PLD 2010 SC 705.

<sup>2</sup> *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.

<sup>3</sup> *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.

Therefore, CMA 2244 of 2023 is found to be devoid of merit, hence, dismissed. As a consequence thereof, this reference and pending applications are dismissed in *limine* as being time barred, whereas, the aforesaid petition is allowed to the remit that the respondents are directed to implement the Impugned Order, in consonance with law interpreted vide *Kashif Feroz vs. Federation & Another* reported as 2021 PTD 867.

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