

THE HIGH COURT OF SINDH KARACHI

Spl. Criminal Appeal No. 08 of 2022

For hearing of Main Case.

Appellant : Affan Usman Ghani son of Usman through Mr. Aqil Ahmed, Advocate.

Respondent 1 : Nemo.

Respondent 2 : The Collector of Customs, Model C.C. Appraisalment (East) Through Mr. Waseem-ur-Rehman, Advocate.

Date of hearing : 27-09-2023

Date of order : 27-09-2023

JUDGMENT

Adnan Iqbal Chaudhry J. - This is an appeal under section 185-F of the Customs Act, 1969 [the Act] against an order dated 14-01-2022 whereby the Special Judge (Customs, Taxation & Anti-Smuggling), Karachi declined to take cognizance on a complaint filed by the Appellant under section 185-A(b) of the Act. That compliant had alleged that the Collector of Customs MCC Appraisalment (Respondent No.2) had released under-valued goods without deciding the Appellant's application under section 25-C of the Act for purchasing those goods at a higher value, and thereby committing an offence under clause (82) of section 156(1) of the Act.

2. The objection to the appeal at the outset is that it is beyond the limitation of 60 days prescribed in section 185-F of the Act. In that regard, the Appellant has moved M.A. No. 4807/2022 under section 5 of the Limitation Act, 1908 for condoning the delay.

3. The impugned order was passed on 14-01-2022, whereas the application for its certified copy was moved by the Appellant on 31-

03-2022, i.e. after 75 days. The certified copy was then delivered to the Appellant on 01-04-2022, whereas the appeal was filed on 12-04-2022, i.e. after another 11 days. Therefore, even excluding the time requisite for obtaining a certified copy under section 12 of the Limitation Act, the appeal is time-barred by 26 days.

4. The ground urged by the Appellant for condoning the delay is that the impugned order was not passed on the day it states to be, but was passed after 25-02-2022 when the Appellant made a complaint to the MIT that the Special Judge was not deciding the Appellant's complaint. However, the only evidence relied upon by the Appellant in that regard is a copy of his complaint dated 25-02-2022 allegedly sent to the MIT *via* post. Even assuming that such complaint was made, that *per se* is not sufficient to establish as serious an allegation that the impugned order was back-dated by the Judge, and therefore does not constitute sufficient cause for condoning the delay.

5. In view of the forgoing, I am not inclined to allow M.A. No. 4807/2022 to condone the delay in filing the appeal. The application is dismissed. Resultantly, the appeal stands dismissed as time-barred.

SHABAN*

JUDGE