

## ORDER SHEET

## IN THE HIGH COURT OF SINDH, KARACHI

## Spl. Customs Reference Appl. No.15 of 2025

The Director Customs Valuation, Karachi  
Versus  
International Business Management

Date	Order with signature of Judge
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1. For Orders on CMA 192/25
2. For Hearing of Main Case.
2. For Hearing of CMA 194/25

Applicant: Mr. Sardar Zafar Hussain, Advocate.  
 Respondents : Ms. Naveen Merchant, Advocate  
 Date of Hearing : 13 August 2025  
 Date of Decision : 13 August 2025  
 Date of Reasons : 18 August 2025

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**MOHAMMAD ABDUR RAHMAN, J** Through this Special Customs Reference Application, maintained under section 196 of Customs Act, 1969, the Applicant impugns an order dated 28 March 2024 that was passed by the Customs Appellate Tribunal (Larger Bench) in Customs Appeal No.K-1439 of 2023 emanating from an Order bearing No.41 of 2023 dated 27 July 2023 passed by the Director General, Directorate General of Customs Valuation, Karachi and from an Order-in-Original dated 5 April 2023 passed by the Director of Directorate General of Customs Valuation, Karachi.

2. **CMA No.192 of 2025** has been maintained by the Applicant, under Section 5 of the Limitation Act, 1908 read with Section 151 of the Code of Civil Procedure, 1908 seeking condonation of delay in maintaining this Reference Application. The grounds taken in the application are reproduced as hereinunder:

“ ... *It is most respectfully submitted that the impugned order was passed by the learned Appellate Tribunal on 28.03.2024, the counsel for the importer submitted photocopy of order with covering letter for implementation of impugned order. The appellant approached the office of learned Appellate Tribunal, thereafter the appellant applied certified copy of order dated 28.03.2024 which was received on 26.12.2024. In the meantime the respondent filed implementation application; lastly the learned Appellate Tribunal called the Additional Director to explain why the order dated 28.03.2024 was not implemented. The Additional*

*Director filed written reply with one of ground that the no certified copy of the order was received.*

*The balance of conveniences and merits of the case are in favour of the Applicant/Appellant. The implications of the impugned order have far reaching effect and ensuing to perpetual loss of the Government revenue. The instant application for condonation of delay in filing of the appeal, may kindly be granted as there is neither any malafides nor the same can be attributed to the Appellant."*

3. In response to the application, it has come on record that a copy of the order passed by the Full Bench of the Customs Appellate Tribunal was provided to the Applicant, receipt of which was acknowledged by the Applicant in the Letter Despatch Register maintained by the Customs Appellate Tribunal, as having been received on 5 April 2024 and as the time period for filing a reference under Sub-Section (1) Section 196 of the Customs Act, 1969 is 90 days, this Reference Application should have been presented on or before 4 July 2024 and as this Application had been presented on 18 January 2025 it was barred by 198 days.

4. Mr. Sardar Zafar Hussain entered appearance on behalf of the Applicant and stated that a copy of the order had not been sent by the Tribunal through registered A/D or through courier and which was however purportedly sent/delivered by hand and a receiving of which is noted, as having been indicated in the Letter Despatch Register maintained by the Customs Appellate Tribunal, on 5 April 2024. He stated that the Applicant had conducted an inquiry and as that order had not been received by them it is the case of the Applicant that the register has been tampered with and hence a fraud has been perpetuated as against the Applicant to deprive them of their right to file this Reference Application. To elaborate it was clarified that while they received the document recorded at Serial No.702 in the Letter Despatch Register, the order at Serial No.703, being the order dated 28 March 2024 that was passed by the Customs Appellate Tribunal (Larger Bench) in Customs Appeal No.K-1439 of 2023, was not received by them and which has fraudulently been inserted later and by taking advantage of the receiving stamp indicating the receiving for the document recorded at Serial No. 702 has also shown the receipt of that order at Serial No. 703. He further contends that the Applicant applied for a certified copy of the order on 28 March 2024 and which was received by them on 26 December 2024 and this Reference Application having been presented on 18 January 2025 was hence well within time.

5. Ms. Naveen Merchant entered appearance on behalf of the Respondent and disputed the contentions of the Applicant. She maintained that the Letter Despatch Register of the Customs Appellate Tribunal had

noted that a copy of the order dated 28 March 2024 had been provided to the Applicant on 5 April 2024 and against which a stamp confirming the receipt had been affixed in the Letter Despatch Register and to disavow such a document would mean to call into question every single receiving that is made in the Letter Despatch Register. She stated that a copy of the order dated 28 March 2024 was also provided by the Respondent on 12 November 2024 and this story has only been concocted by the Applicant as an afterthought so as to justify its own negligence. It was also submitted that the allegations raised by the Applicants have far reaching consequences and therefore should not be sustained. In this regard she relied the decisions of the Supreme Court of Pakistan and of this Court reported as **Central Board of Revenue, Islamabad v. Raja Industries (Pvt.) Ltd.**,<sup>1</sup> **Government of Pakistan through Ministry of Works & another v. Malbrow Builders, Contractor, Silakot**,<sup>2</sup> **Noor Muhammad v. Customs Appellate Tribunal, Peshawar Bench through Chairman and others**,<sup>3</sup> **Muhammad Faisal Prop., F.A.Traders, Lahore v. Commissioner Inland Revenue, Zone-II, RTO-II, Lahore**,<sup>4</sup> **Karachi Shipyard and Engineering Works Ltd. Through Managing Director v. Sindh Labour Appellate Tribunal**,<sup>5</sup> and **Collector of Customs through Additional Collector of Customs v. Dream Garments**,<sup>6</sup> each of which state that limitation is not a technicality as once the period of limitation expires, a vested right is created in favour of the other side by operation of law. She also relied on a decision of the Supreme Court of Pakistan reported as Commissioner **of Inland Revenue, Lahore v. Sargodha Spinning Mills (Pvt.) Ltd.**<sup>7</sup> in which it was held that for this court to exercise jurisdiction over a Reference Application would necessitate a question of law that would require to be answered and if not question of law arose from the impugned order, the Reference Application could not be maintained.

6. We have heard Sardar Zafar Hussain and Ms. Naveen Merchant and have perused the record.

7. CMA No.192 of 2025 is premised on an allegation of fraud alleged to having been committed by the Customs Appellate Tribunal against the Applicant. We have perused the Letter Despatch Register and note that

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<sup>1</sup> 1998 SCMR 307

<sup>2</sup> 2006 SCMR 1248

<sup>3</sup> 2020 SCMR 246

<sup>4</sup> 2025 SCMR 930

<sup>5</sup> 2024 PLC 100

<sup>6</sup> 2021 PTD 1042

<sup>7</sup> 2022 SCMR 1082

there is no allegation that the stamp, affixed as against Serial No.702 and Serial No. 703 in the Letter Despatch Register, is not the stamp of the Applicant. Indeed, if a comparison is made as between the stamp affixed against Serial No.702 and Serial No. 703 in the Letter Despatch Register with the stamp affixed as against other Serial Numbers, on the same page one would safely conclude that there was no difference as between each of the stamps.

8. The only allegation that remains is therefore that through an interpolation the entry at Serial No.703 was inserted into the Letter Despatch Register and the acknowledgement that was given for the entry at Serial No. 702 was conjunctively attributed to the entry at Serial No. 703. We do not agree with this contention as firstly, we must attribute a presumption of legality to the record maintained by the Customs Appellate Tribunal in its Letter Despatch Register and secondly, we are not able to ascertain questions of fact in this Reference Application. CMA No.192 of 2025 is therefore not maintainable.

9. In the circumstances as there is no justification, that has been pleaded by the Applicant in CMA No.192 of 2025, that would clarify the delay of 198 days in maintaining this Application we are of the considered opinion that no valid basis has been made out to condone the delay of 198 days in maintaining this Reference Application. On account, CMA No.192 of 2025 is dismissed and consequently the main Reference Application is also dismissed, along with all pending applications, as not being maintainable. There will, however, be no order as to costs.

**JUDGE**

**JUDGE**

**Karachi dated 18 August 2025**