

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Special Customs Reference Application No.34 of 2026

DATE

ORDER WITH SIGNATURE OF JUDGE

Fresh case

1. For order on office objection
2. For order on CMA No.585/2026
3. For hearing of main case
4. For order on CMA No.586/2026

12.05.2026

Mr. Arif Ahmed Manthar, Advocate for the applicant

The relevant paragraphs of the impugned judgment read as follows:

"06. I have heard the arguments advanced by the learned counsel for the Appellant as well as the Respondents' representative, and have also perused the record of the case.

07. The first and foremost issue before the undersigned is time-barred appeal, which was filed after 3 years 11 months and 64 days of the expiry of the mandatory period of 30 days. An appeal under Section 194A(1) of the Customs Act, 1969, against an Order passed by the Collector of Customs, was required to be filed within 30 days of the communication of the Order read with Section 215 of the Customs Act, 1969. Any appeal filed beyond that time period was held to be barred by time limitation and the same could be condoned under Section 194A(5) of the Act *ibid* if sufficient cause is shown to the satisfaction of the Tribunal in not presenting the appeal in time. Said subsection reads as under: -

"(5). The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section(3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period."

08. Based on the foregoing legal scenario, it is observed that the instant appeal had been filed on 30.05.2025 against Order-in-Original No. 98/2021 Dated 15.03.2021 (the "Impugned Order"). An appeal against this Order was required to be filed within 30 days of the communication of the Order i.e. latest by 15.04.2021. However, the instant Appeal was filed on 30.05.2025 (i.e. after 3 years, 11 months and 64 days of the date of Order).

09. The Appellant has filed an application for the condonation of delay, mentioning therein 'sufficient cause' for such delay that the Impugned Order was not served upon the Appellant and has relied upon the judgment of the Hon'ble Sindh High Court. A critical perusal of the application for condonation of delay reveals that no evidence as to non-receipt of the Impugned Order has been placed on record nor any evidence for procurement of certified true copy

has been produced. Indeed, the limitation is the primary question which needs to be addressed before parting with the merits of the case. Unfortunately, no sufficient cause has been given to justify the delay in filing the instant appeal. I, therefore, do not hesitate to dismiss the application for condonation of delay.

10. The appeal being barred by time limitation does not warrant discussion of merits in the light of the judgment of Hon'ble Supreme Court of Pakistan in the case of Muhammad Faisal vs. Commissioner IR reported as 2025 SCMR 930 wherein the Hon'ble apex court has held as under:

"10. It is also a settled proposition of law that limitation is not a mere technicality, as once limitation expires a vested right is created in favour of other side by operation of law which cannot be taken away lightly."

11. Be that as it may, the instant appeal being miserably barred by time limitation is dismissed. Accordingly, the Impugned Order holds the field."

Prima facie, the impugned judgment has been rendered on appreciation of evidence and the law and the same has not been distinguished or displaced by the learned counsel. It has also not been demonstrated that the conclusion could not be rested thereupon.

The issue of limitation is of paramount importance and has to be considered prior to any other proceedings in the matter. It is also settled law that that each and every day of delay has to be justified for the delay to be condoned and in the present case the same could not be done before the learned Tribunal and nothing has been articulated before us to consider the same as anything but in accordance with the law. Since no question of law has been articulated before us, therefore, this reference application is dismissed *in limine*.

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