ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application No. 158 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

Fresh case.

1. For orders on CMA No. 1660/26.
2. For hearing of main case.
3. For orders on CMA No. 1661/26.

27.08.2026

Mr. Muhammad Ishaq Pirzada, advocate for the applicant alongwith Mr. Fareed Ahmed Khan, Collector (Enforcement) and Mr. Yasser Kalwar Additional Collector.

The impugned judgment finds the show cause notice to be barred by limitation. The relevant dates etc. are clearly particularized therein to which no cavil has been demonstrated from the record. Yet this reference application has been preferred. Operative part of the impugned judgment reads as follows:-

> "10. I have heard the arguments of both sides and carefully examined the entire case record in light of the facts and law points involved therein. During the hearing the learned counsel for the appellant pointed out that the goods were seized on 25.10.2024. The Show Cause Notice was issued on 17.07.2025 considering the provisions of section 180 of the Customs Act, 1969 which was required to be issued within the mandatory period of two months (sixty days), hence, the Show Cause Notice was issued after expiry of prescribed time limit as provided under the section 180 of the Customs Act, 1969, therefore, the Show Cause Notice is time barred and *void ab initio*.
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> 11. Further the learned counsel for the appellant relied upon PTCL Further, the learned counsel for the appellant relied upon 1991 CL.177 M/s. Sikandar and brothers VS Government of Pakistan through Member (Judicial) Central Board of Revenue and another that sub-section (2) of Section 168 places a corresponding obligation on the seizing officer that in the event of seizure of goods he is bound to proceed for adjudication of confiscation of the goods at an early date. However, in this case seizing officer has miserably failed to proceed with the case under the provisions of the prescribed law.
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> 12. The DR could not satisfy to this Bench on the issue of time-barred, nor gave any plausible reasons for the late issuance of Show Cause Notice. It is evident that the impugned Show Cause Notice is time-barred by 8 months and 23 days, hence, it is void ab initio in light of provisions of the Customs Act, 1969. It is also pertinent to quote section 168 (2) in light of the Judgment of the Hon'ble Supreme Court of Pakistan passed in the case of Mujahid Soap vs Customs Appellate Tribunal Islamabad reported as 2019 SCMR 1735 in which it case was disposed of according to the issue of time-barred. Section 168 (2) reads as under:-
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>> *"168(2). Where any goods are seized under sub-section (1) and no show-cause notice in respect thereof is given under section 180 within two months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized.*
>> *Provided that the aforesaid period of two months may, for reasons to be recorded in writing, be extended by the Collector of Customs by a period not exceeding two months.*
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> 13. Given the above legal and factual position, it is observed that the Seizing Agency, as well as the Adjudicating Authority have miserably failed to follow the dictum of law, and also no extension of the period has been brought before this Bench. Hence, the impugned Show Cause Notice is vacated as being time-barred and the Order-in-Original is hereby set aside. I order for release of the impugned goods alongwith the vehicle to their lawful owner. The appeal of the appellant is hereby allowed and disposed of in the above terms.
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> 14. Order passed and announced accordingly."

On 13.03.2026 the following order was passed:

> "Mr. Muhammad Ishaque Pirzada, advocate for the applicant
> 1. Urgent application is granted.
> 2-4. This reference application has been filed impugning the findings of the learned Tribunal that the show cause notice was time-barred. Paragraph 10 of the impugned judgment catalogues that the goods were seized on 25.10.2024 and the consequent show cause notice was issued on 17.07.2025. The order observes that per Section 180 of the Customs Act, 1969, the show cause notice was to be issued within a period of 60 days and the same is certainly not the case. Perusal of the show cause notice. available at page 51 of the court file, corroborates the aforesaid.
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> Learned counsel for the applicant remained unable to assist as to how this reference is maintainable / entertainable in view of the foregoing. Since this is a matter of public revenue, let the applicant, Collector of Customs, Collectorate of Customs, Enforcement Karachi be present in person in court on the next date to assist. To come up on 27.08.2026. This order shall be communicated to the applicant by the learned counsel."

Mr. Fareed Ahmed Khan, Collector (Enforcement) is present today and states that the underlying record / evidence suffers from typographical errors and the dates mentioned are contrary to his record, therefore, he seeks the relevant evidence, including the mashirnama etc., be reappraised by this court in exercise of its reference jurisdiction.

In so far as the *de novo* appreciation of evidence is concerned, it would suffice to reiterate settled law that the learned tribunal is the last forum of fact in the pertinent statutory hierarchy. The appreciation of evidence was only material before the subordinate adjudication fora and no appreciation of evidence is merited before this Court in the exercise of its reference jurisdiction[1]. Since the learned Appellate Tribunal is the last fact-finding forum in the statutory hierarchy, therefore, such de novo adjudication does not fall within the ambit of reference jurisdiction[2]. We have not been assisted with any reference to any attempt by the applicant to have any inadvertence in the record corrected before the consecutive fora. Since no question of law has been articulated before us to be adjudicated in reference jurisdiction, therefore, this reference application is dismissed in *limine*.

The Supreme Court has taken judicial notice of the fact that the fiscal docket in the superior courts has been clogged with unmerited litigation, including that precipitated / perpetuated at the behest of Revenue. The Supreme Court considers such conduct as that of a *habitual litigant* in the recent Supreme Court judgment in the case of *Umar Tariq Khan*[3] especially paragraphs 8, 9 and 10 thereof. It is apparent that precipitation and / or perpetuation of unmerited litigation has been unequivocally disapproved by the superior courts and the cited judgment meticulously reiterates the same. *Prima facie* the present matter appear to fall within the ambit of such proscription. Perpetuating such matters clogs the docket of the Courts and the consequence thereof is eventually borne

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[1] Per *Qazi Faez Isa J* in *Middle East Construction vs. Collector Customs*; judgment dated *16.02.2023* in *Civil Appeals 2016 & 2017 of 2022*; *Collector of Sales Tax vs. Qadbros Engineering Limited* reported as *2023 SCMR 939*; *Army Welfare Trust vs. Collector of Sales Tax* reported as *2017 SCMR 9*; *Pakistan Match Industries (Pvt.) Ltd. Vs. Assistant Collector, Sales Tax and Central Excise* reported as *2019 SCMR 906*; *Commissioner of Inland Revenue, Lahore vs. Sargodha Spinning Mills (Pvt.) Ltd.* reported as *2022 SCMR 1082*.

[2] Per *Munib Akhtar J* in *Collector of Customs vs. Mazhar ul Islam* reported as *2011 PTD 2577* – Findings of fact cannot be challenged in reference jurisdiction.

[3] Per *Miangul Hassan Aurangzeb J* in *ACIR Rawalpindi* vs. *Umar Tariq Khan* (CPLA 1990 of 2025); judgment dated 15.01.2026.

by revenue. The learned officer graciously appeared to insist upon the department's stance, however, the outcome was as particularized supra. We consider the department is in itself best placed to determine how to deal with such matters, therefore, let a copy of this order be sent to the learned Attorney General for Pakistan, the Secretary Revenue Division and the Chairman, FBR, at Islamabad, for appropriate measures.

A copy may also 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.