

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Yahya Afridi, CJ  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Miangul Hassan Aurangzeb

**Civil Petition No.110 of 2023**

*(Against the impugned order dated 28.11.2022 of the Lahore High Court, Lahore passed in Customs Ref. No.74659 of 2022)*

**AND**

**CMA No. 5968 of 2025**

*(Stay application)*

*M/s Commander Agro (Private) Limited. ... Petitioner*

**Versus**

*Customs Appellate Tribunal Bench-I, Lahore etc. ... Respondents*

For the Petitioner: Sh. Zafar ul Islam, ASC.  
a/w Mr. Tanveer Ahmad, ASC.  
Syed Rifaqat Hussain Shah, AOR.

For the Respondents: Mr. Izhar ul Haq, ASC.  
Ali Hassan Raza D.C Customs.

Date of Hearing: 20.08.2025.


**JUDGMENT**

**Muhammad Shafi Siddiqui, J.** The primary question involved in this petition is the one as to whether after issuance of show cause notice on 05.12.2014 the order-in-original was passed within the time contoured by section 179(3) of the Customs Act, 1969. On the aforesaid point, we have heard the learned counsel and perused the material available on record. This being a pivotal question, the other legal grounds could only be taken up for consideration once this question of limitation is decided, if required.

2. We have heard the learned counsel and perused the record. Admittedly, the show cause notice was issued on 05.12.2014, copy of

which is available at page 117 of the paper book; proceedings commenced on the basis of the aforesaid show cause notice before the Collector, Collectorate of Customs (Adjudication), Faisalabad, who, as stated above, is under an obligation to decide the case within 120 days (as the Law then was). The period was subsequently reduced to 90 days via Finance Act 2019, however, such is not relevant as at the relevant time when the show cause notice was issued, the law prescribed the period of 120 days to decide the case or within such extended period, as the law permits, for which reasons ought to be recorded in writing; but in any case it should not have exceeded by 60 days (as it then was), via Finance Act, 2009. Prior to such amendment it was 90 days which is not applicable. In the instant case show cause notice was issued on 05.12.2014 leaving the officer to decide the case within a period of 120 days in addition to adjournment sought in terms of 2<sup>nd</sup> proviso to section 179(3).

3. The order-in-original shown to have been passed on its first/title page as 19<sup>th</sup> of May 2015, whereas at the end of the said order-in-original it is shown to have been signed on 4<sup>th</sup> of June, 2015. In counting the prescribed period in terms of section 179(3) (as it then was) a period of 120 days and another period of 30 days of adjournment i.e. 150 days were available to decide the case within the frame of section 179(3). The computation is as under:

<i>26 days of December, 2014;</i>		<i>120 days in terms of</i>
<i>31 days of January, 2015;</i>		
<i>section</i>		
<i>28 days of February, 2015;</i>		
<i>31 days of March, 2015;</i>		<i>179(3) as the law stood</i>
<i>30 days of April, 2015;</i>		
<i>4 days of May, 2015;</i>		<i>on 04.12.2014</i>
<i>30 days of adjournment;</i>		<i>2<sup>nd</sup> Proviso to section 179(3)</i>

The above makes 150 days that is 120 days of the limitation provided under section 179(3) and 30 days of adjournment in terms of second proviso to section 179(3). The order ought to have been passed on or before 4<sup>th</sup> of May of 2015. This order shown to have been passed either on 4<sup>th</sup> June, 2015 or on 19<sup>th</sup> of May, 2015. Surprisingly, through CMA No.6515 of 2025, filed by the advocate on record of the respondent, a letter shown to have extended a request for extension of time in terms of section 179(4) of the Customs Act, 1969, however, alleged extension is dated 20<sup>th</sup> of May 2015. The alleged extension is shown to have been passed much after the limit prescribed in terms of section 179(3), i.e. 150 days. If this was done on 20<sup>th</sup> of May 2015, how an order could have been passed on 19<sup>th</sup> of May 2015 as disclosed on the title page of the customs order in original No.168 of 2015.

4. This time bound proceeding in terms of sections 179(3) and 179(4) is mandatory. The like provisions were adjudged as mandatory in the case of *Collector of Sales Tax, Gujranwala and others Vs. Super Asia Mohammad Din and others* (2017 SCMR 1427). Judgment then came for its application in another matter that is *Wak Limited Vs. Collector Central Excise and Sales Tax* reported as 2018 SCMR 1474 which expressed their concern over finding of *Super Asia*. The matter was then set at rest by larger bench of this Court in the case of *Messers Wak Limited Multan Road, Lahore and others Vs. Collector Central Excise and Sales Tax, Lahore and others* reported as 2025 SCMR 1280 which confirmed and upheld the findings of *Super Asia case* *ibid*, confirming the time bound proceedings as mandatory.

5. Since, in terms of the above calculation the order was passed much beyond the time limits and even the alleged extension was much beyond the limit prescribed, (as it ought to have been extended, if at all, within the time frame), leaving the decision that is order-in-original as time barred and consequently the proceedings under the aforesaid show cause notice could not continue any more.

6. With this understanding this petition is converted into appeal and is allowed and the impugned order of the High Court is set-aside in the above terms. CMA No.5968/2025, which is a stay application, is disposed of.

Chief Justice

Judge

Judge

Announced in open Court at Islamabad on 28/08/2025.

Judge

Approved for Reporting  
(Asif Bhatti)