

BY: SPECIAL MESSENGER  
THROUGH REGISTERED POST/AD

**IN THE COMPETITION APPELLATE TRIBUNAL**  
2<sup>nd</sup> Floor, Federal Courts Complex, G-11/1, Islamabad.  
Email: registrartribunal@gmail.com  
Tel No: 051-9320208 Fax No: 051-9320209

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No. 405  
Dated: 30-09-2016

University of South Asia, through Registrar Office, 47-Tufail Road,  
Lahore Cantt: Lahore.

**APPELLANT**

Vs.

✓  
Competition Commission of Pakistan, 7<sup>th</sup> Floor, ISE Towers, 55-B Jinnah  
Avenue, Islamabad.

**RESPONDENT**

**NOTICE**  
**Appeal Dy No.10/2013**

**Take notice that** under rule 51 of The Competition Appellate Tribunal Rules, 2015, attested copy of the order dated 28-09-2016 is enclosed herewith for information and record.

2. Given under my hand and stamp of the Tribunal, this 30<sup>th</sup> day of September, 2016.



*[Handwritten Signature]*  
Registrar  
9320208

**REGISTRAR**  
Competition Appellate Tribunal  
Government of Pakistan  
Islamabad

10  
03-06-2013

**BEFORE THE COMPETITION APPELLATE TRIBUNAL ISLAMABAD**  
(The Tribunal constituted under Section 43 of the Competition Act 2010)

Appeal No. \_\_\_\_\_/2013

University of South Asia, a Chartered University under Punjab Act IX of 2005 through Registrar with his office situated at 47-Tufail Road, Lahore Cantt: Lahore

----APPELLANT

Versus

Competition Commission of Pakistan established under section 12 of Act No. XIX of 2010 called "The Competition Act 2010" through its Chair Person with its office situated at 7<sup>th</sup> Floor, ISE Towers, 55-B, Jinnah Avenue, Islamabad

----RESPONDENT

**APPEAL UNDER SECTION 42 OF THE COMPETITION ACT, 2010 AGAINST THE JUDGMENT AND ORDER OF A 3-MEMBERS BENCH OF THE COMPETITION COMMISSION DATED 1-3-2013 RECEIVED WITH LETTER DATED 6-3-2013.**

Brief facts giving rise to the instant Appeal are narrated as under:

- (1) On 28-6-2012, a Show Cause Notice was issued to the Appellant University alongwith 26 others Universities who offer Engineering Courses. All these 27 Universities to whom Show Cause Notice was issued have been detailed in Para 1 of the impugned Order.

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**REGISTRAR**  
Competition Appellate  
Government of  
Islamabad  
30/9

**BEFORE THE  
COMPETITION APPELLATE TRIBUNAL, ISLAMABAD**

UNIVERSITY OF SOUTH ASIA

.... APPELLANT

VERSUS

COMPETITION COMMISSION OF PAKISTAN

...RESPONDENT

**Appeal Diary No. 10/2013**

For the appellant: Mr. Sukrat Mir Basit Advocate

For the Respondent: Mr. Sultan Mazhar Sher Advocate.

Date of hearing: 11.05.2016 & 15-06-2016

Through the present order we propose to dispose of the application for condonation of delay submitted by appellant in appeal titled "University of South Asia vs Competition Commission of Pakistan", registered at Diary No. 10/2013.

The Learned Counsel for appellant contended that the Competition Commission of Pakistan delivered the judgment on 01-03-2013 and the present appeal has been filed on 27-05-2013 i.e. with a delay of more than 20 days. Learned Counsel contended that this delay is on account of non functioning of the Tribunal at the relevant time and the appellant was not sure as to file a Writ Petition or an appeal against impugned order, therefore, the delay in filing the appeal be condoned and appeal be heard on merits along with connected appeals.

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**REGISTRAR**  
Competition Appellate Tribunal  
Government of Pakistan  
Islamabad  
30/9/16

Learned Counsel for the respondent contended that the appellant was required to be vigilant in pursuing his remedy before a proper forum and the appeal should have been filed within required statutory period of limitation, prescribed under section 42 of Competition Act 2010, which is sixty days. He further contended that the appellant under the Law is required to explain each and every day of delay in filling appeal and plead sufficient cause and reasonable grounds in the application but the appellant has failed to furnish any reasonable explanation in this

connection. He further contended that appeal is time barred, and same is liable to be dismissed on the legal point of limitation. He placed reliance on the judgments reported in 1970 SCMR 558, 2006 SCMR 1248, 2010 SCMR 1899 and PLD 2014 Supreme Court 585.

The contention of Learned Counsel for appellant is without any substance because if the Tribunal was not functional, the appellant could have filed the appeal in the office of Registrar of this Tribunal.

Perusal of record reveals that the present appeal was filed on 03-06-2013 but no application for condonation of delay in filling appeal was presented along with memorandum of appeal. The application for condonation of delay has been submitted on 07-06-2016 i.e after a delay of more than three years of filing of appeal. The appellant has failed to furnish any reasonable ground and explanation for condonation of delay in filing the present appeal. The appellant was required to furnish reasonable explanation for each and every day delaying in lodging appeal which he has failed to produce in the present case. The August Supreme Court of Pakistan in 2010 SCMR 1899 has ruled that party seeking condonation of delay is under legal duty to explain each day's delay and to show their vigilance to avoid such delays which fatally obviated valuable remedy. In this connection, reference may be made to 1970 SCMR 585, 2010 SCMR 1899, 2006 SCMR 1248 and 1970 SCMR 558.

Thus we hold that the grounds mentioned by the appellant in application for condonation of delay do not disclose any plausible explanation as to the cause of delay in filling the present appeal and even the application for condonation of delay has been filled after more than three years of filing of appeal, therefore, we are declined to condone the delay and resultantly the appeal is dismissed as barred by limitation.

**REGISTRAR**  
Competition Appellate Tribunal  
Government of Pakistan  
Islamabad  
30/9/16

Announced in open court  
28.09.2016

Justice (R) Miftah-Ud-Din  
Member Technical

Justice (R)  
Mian Fasih Ul Mulk,  
Chairperson

Ahmed Owais Pirzada  
Member Technical

*Chairperson*

**REGISTRAR**  
Competition Appellate Tribunal  
Government of Pakistan  
Islamabad

Application No.	N/L
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