

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

**Second Appeal No.118 of 2026**

( *Slag Cement Industries Ltd v. Pakistan Steel Mills Corporation Ltd* )

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**DATE:** **ORDER WITH SIGNATURE(s) OF JUDGE(s)**

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1. For Orders on CMA No.2845/2026 (Exemption)
2. For Hearing of Main Case
3. For Orders on CMA No.2846/2026 (O 41 R. 5 CPC)

**13-5-2026**

Mr. Muhammad Azam Zardari, Advocate for Appellant

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**ORDER**

1. **Sana Akram Minhas, J:** The Appellant<sup>1</sup>, has assailed the concurrent findings returned by the two Courts below.
2. The Appellant's Civil Appeal No.250/2025<sup>2</sup> ("**Civil Appeal**"), together with, application<sup>3</sup> for condonation of delay under Section 5 of the *Limitation Act, 1908* ("**Delay Condonation Application**"), was dismissed by the learned first Appellate Court on the ground of limitation vide Judgment and Decree dated 26.3.2026<sup>4</sup>. As a result, the ex parte Judgment and Decree dated 4.1.2025<sup>5</sup> passed by the learned Trial Court in Civil Suit No.456/2023<sup>6</sup> (*Pakistan Steel Mills Corporation Ltd v. Slag Cement Industries Ltd*) ("**Underlying Suit**"), whereby the Respondent's Underlying Suit was decreed, remained undisturbed.

**Background Facts**

**Respondent's Underlying Civil Suit No.456/2023**

3. Briefly stated, the Respondent (Plaintiff in Underlying Suit) instituted the Underlying Suit for "*Declaration, Cancellation, Possession & Recovery of*

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<sup>1</sup> The Appellant's correct and full name, as reflected in its Board Resolution, is "*Pakistan Slag Cement Industries (Pvt) Limited*"

<sup>2</sup> At Court File Pg. 41

<sup>3</sup> At Court File Pg. 227

<sup>4</sup> At Court File Pg. 25 & 37

<sup>5</sup> At Court File Pg. 203 & 221

<sup>6</sup> At Court File Pg. 63

Rs.3,395,941/-<sup>4</sup>, averring that it had developed and subdivided land in the Pakistan Steel Down Stream Industrial Estate, Zulfiqarabad, Bin Qasim, Karachi.

4. It was pleaded that two plots (measuring 40,341.455 square meters and 2,957.25 square meters respectively) were allocated to the Appellant (Defendant in Underlying Suit) for establishment and expansion of a slag cement manufacturing plant. Physical possession was delivered and lease indentures were executed in the Appellant's favour. It was further pleaded that under the terms of lease/allocation, the Appellant was liable to pay ground rent and maintenance charges, failing which the Respondent was entitled to resume possession.
5. Alleging persistent default on the part of the Appellant despite repeated notices, the Respondent, through the Underlying Suit, sought declaration of breach of the lease/allocation terms, cancellation of the allocation letters and lease indentures, recovery of possession of the two plots, and recovery of outstanding as well as future dues till resumption of the land.

*Appellant's Failure to Deposit Costs – Non-Compliance with Trial Court's Conditional Recall Order Resulting in Ex Parte Proceedings*

6. After institution of the Underlying Suit, summons were issued to the Appellant; however, despite service being held good, no written statement was filed and by order dated 18.1.2024 the matter proceeded ex parte.
7. Thereafter, the Appellant appeared and moved an application seeking recall of the order debarring it from filing the written statement. **At that point of time, the ex parte evidence of the Respondent had already been recorded and the matter was at the stage of final arguments**, as noted in the Trial Court's order dated 14.10.2024<sup>7</sup>. Nevertheless, the Trial Court, vide the said order of 14.10.2024, allowed the Appellant's said application subject to payment of costs of Rs.20,000/- within fifteen (15) days, failing which the order (allowing the application) would stand recalled automatically. As the Appellant failed to comply with the said condition, by order dated 19.11.2024<sup>8</sup>, the matter again proceeded ex parte and was ultimately decreed in favour of the Respondent by the Trial Court.
8. Aggrieved thereby, the Appellant filed the aforesaid Civil Appeal along with the Delay Condonation Application before the learned first Appellate Court,

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<sup>7</sup> At Court File Pg. 189

<sup>8</sup> At Court File Pg. 199

which was dismissed by the impugned Judgment and Decree dated 26.3.2026.

#### **Bar of Limitation – Civil Appeal No.250/2025 Filed After 11 Months**

9. Learned Counsel for the Appellant has today placed on record a Statement enclosing a photocopy of the Trial Court's Judgment and Decree dated 4.1.2025, which itself bears the office stamp of the concerned branch/office indicating that the certified copy was applied for on 8.12.2025. The said endorsement reflects a delay of more than eleven (11) months in applying for the certified copy i.e. well beyond the period of thirty (30) days prescribed under Article 152 of the *Limitation Act, 1908* for filing an appeal before the District Court.
10. Even otherwise, in view of the fact that the Appellant itself filed the Delay Condonation Application in Civil Appeal, Counsel for the Appellant admitted that the said Civil Appeal, instituted on or about 13.12.2025 against the Trial Court's Judgment and Decree dated 4.1.2025, was indeed filed with a delay of approximately eleven (11) months.

#### **Appellant's Submission**

11. The sole ground urged by the Appellant in the Delay Condonation Application for the delayed filing of the Civil Appeal was the alleged negligence of an unnamed advocate, who purportedly failed to act in time despite instructions to institute the Appeal; in support of the said contention Counsel relied upon case law<sup>9</sup>.
12. Upon being questioned regarding the identity of the alleged negligent advocate, Counsel for the Appellant stated that he was unaware of the same. When further asked whether any action had been initiated against the said advocate, Counsel again expressed ignorance and submitted that the matter was the Appellant's own concern – in fact, the exact phrase used by the learned Counsel was that it was the Appellant's "*own headache*".

#### **Decision**

13. The matter has been heard and the record perused.

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<sup>9</sup> 2020 CLC 1568 (*Head Master, Government High School v. Imamuddin*): PLD 2024 SC 864 (*Muhammad Yousuf Bhindi v. A.G.E. & Sons (Pvt) Ltd*)

14. The submission that the taking or non-taking of action by the Appellant against the alleged unidentified negligent advocate was solely the Appellant's own concern is wholly misconceived and untenable. Once negligence of counsel is set up as the sole ground for seeking condonation of delay, the Court is fully entitled to examine the bonafides, truthfulness, and diligence of such plea, including whether any steps were taken against the allegedly negligent advocate. The failure to disclose even the identity of the advocate concerned, coupled with the absence of any material showing that any action whatsoever was initiated against him, renders the explanation vague, unsubstantiated, and devoid of credibility.
15. So also, no particulars have been furnished by the Applicant in the Delay Condonation Application as to when and how the alleged instructions were purportedly given to the said advocate, nor has any material been placed on record to explain the Appellant's inaction in failing to follow up with the said advocate over a prolonged period of approximately eleven (11) months, which further weakens the stance taken by the Appellant in support of the alleged cause for delay and renders the explanation wholly unconvincing and devoid of credibility.
16. In these circumstances, the explanation offered does not inspire confidence and fails to demonstrate due diligence on the part of the Appellant in pursuing the remedy. The mere attribution of negligence to an unspecified counsel, without particulars or supporting material, cannot constitute a plausible or satisfactory explanation for the entire period of delay. The plea, therefore, remains in the realm of conjecture and afterthought. Accordingly, it does not constitute "*sufficient cause*" within the meaning of the law governing condonation of delay.
17. The law of limitation is not a mere technicality; rather, expiry of limitation creates valuable and vested rights in favour of the opposite party. Consequently, once a matter is found to be time-barred, it cannot be entertained on merits unless sufficient cause for condonation of delay is shown. It is an entrenched principle of law that each day of delay must be satisfactorily explained in an application seeking condonation of delay, failing which such application is liable to be dismissed. The Appellant's Delay Condonation Application fails to satisfy even this requirement.
18. Additionally, the Appellant's conduct in instituting a time-barred Civil Appeal before the first Appellate Court is to be viewed in continuation of its earlier non-compliance with the conditions of indulgence granted by the Trial Court (detailed in paragraphs 6 and 7 above). Despite having been afforded an opportunity by the Trial Court (by way of recall of the order debarring it from

filing written statement), the Appellant failed to comply with the condition of payment of costs, resulting in forfeiture of the benefit extended, consequent ex parte proceedings, and ultimately the Trial Court's Judgment and Decree.

19. The Appellant's failure to avail judicial indulgence on account of non-compliance with the conditions imposed by the Trial Court, as well as its disregard for the law of limitation in filing the Civil Appeal before the first Appellate Court, reflects a consistent lack of diligence and bona fide prosecution of its remedies, and an indifferent approach towards its legal obligations. The case law relied upon by the Appellant's Counsel is, therefore, clearly distinguishable on facts.

### **Conclusion**

20. In view of the foregoing, no interference is warranted in the impugned Judgment and Decree passed by the first Appellate Court dismissing the Appellant's Civil Appeal No.250/2025 as having been filed beyond the prescribed period of limitation. The Appellant has failed to establish sufficient cause for the inordinate delay, and the explanation offered is vague and unsubstantiated. Accordingly, the instant Second Appeal is **dismissed in limine** along with all pending applications, with no order as to costs.

**JUDGE**

FAIZAN\*