

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application 190 of 2024
Income Tax Reference Application 191 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on CMA 1667/2024.
- 2. For orders on office objections1, 4, 8 & 27.
- 3. For orders on CMA 1668/2024.
- 4. For orders on CMA 1669/2024
- 5. For hearing of Main Case.

04.12.2025

Mr. Ghazi Khan Khalil, advocate for the applicant.
Mr. Zahid Jamali, advocate for the respondent.

These references pivot on the crucial aspect of limitation in view of settled law that it must be deliberated and decided at the very onset. On 23.10.2025, the following order was passed:

“23.10.2025
Mr. Ghazi Khan Khalil, advocate for applicant

Learned counsel presses the following issues:

- i. Whether on the facts and circumstances of the case, Learned Appellant Tribunal was justified within the mandate of section 131(4) of the Ordinance and ATIR rules to admit time barred appeal?
- ii. Whether on the facts and circumstances of the case, ATIR was not legally obliged under section 132(1) to ascertain merits and facts of the non-compliance made by the respondent taxpayer of non-deduction and payments of dues taxes under various provisions of the Ordinance and whether non-inquiry into facts and issue involved in the case ends order of ATIR nullity under the law?

He states that the appeal was time barred by 301 days, however, without the said issue even being considered, judgment has been rendered by the learned Tribunal.

Admit reference; notice to the respondent through first two modes as well as courier. Learned counsel is directed to place on record tracking report, to come up on 06.11.2025. In the meanwhile, operation of the impugned order is suspended.”

Service was made upon the respondent and its representative appeared on the last date, however, sought time. Upon specific request a fixed date was given, being today. Respondent’s counsel is present, expresses inability to proceed and merely seeks an adjournment. Respectfully, no case is made out to perpetuate this matter.

It is the considered opinion of the Court that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of

limitation otiose¹. The Superior Courts have consistently maintained that it is incumbent upon the Courts to first determine whether the proceedings filed there before were within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard². The Superior Courts have held that proceedings barred by even a day could be dismissed³; once time begins to run, it runs continuously⁴; a bar of limitation creates vested rights in favour of the other party⁵; if a matter was time barred then it is to be dismissed without touching upon merits⁶; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance⁷. It has been maintained by the honorable Supreme Court⁸ that each day of delay had to be explained in an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed.

Prima facie the issue of limitation has been addressed in the impugned judgment in a perfunctory manner and the same has not even been controverted by the respondent's learned counsel. It is settled law, as reiterated vide judgment of a Division Bench of this Court dated 14.05.2024 in ITRA 82 of 2024, that the proper course to adopt in such circumstances is to remand the matter and enable the tribunal to address the issue of limitation afresh before proceeding further, if at all. Therefore, no case is set forth to sustain the impugned judgment and the same is hereby set aside; the matter is remanded back to the Appellate Tribunal for adjudication afresh per the law. The learned tribunal may be pleased to deliberate the issue of limitation at the very onset and determine the same per law.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal, as required per section 133(8) of the Income Tax Ordinance, 2001. Office to place copy hereof in the connected matter.

Judge

Judge

M. Khan

¹ *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.

² *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.

³ 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.

⁴ *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.

⁵ *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.

⁶ *Muhammad Tufail Danish vs. Deputy Director FIA* reported as 1991 SCMR 1841; *Mirza Muhammad Saeed vs. Shahabudin* reported as PLD 1983 SC 385; *Ch Muhammad Sharif vs. Muhammad Ali Khan* reported as 1975 SCMR 259.

⁷ *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.

⁸ *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.