

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
ITRA No.10 of 2026

Date	Order with Signature of Judge
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Fresh Case

1. For orders on CMA No.132/2026(Condonation of delay)
2. For order on office objection Nos. 2 and 3
3. For orders on CMA No. 133/2026
4. For orders on CMA No. 134/2026
5. For hearing of Main Case

09.03.2026

Mr. Muhammad Aleem, Advocate for the Applicant

Admittedly this reference was filed with delay of 1251 days. The Applicant has filed CMA No. 132 of 2026 seeking for the delay to be condoned, The affidavit in support of the application is devoid of a single reason / ground, however, in the verbose memorandum of application pleads inter alia as follows:

“2. That the Applicant, acting strictly upon the professional advice of his counsel, who is an Income Tax Practitioner (ITP) and not an Advocate, was advised to file a rectification application against the impugned order. Being a lay person and having no legal training, the Applicant was unaware of the technical and legal distinction between a rectification application and the filing of an appeal/reference before this Hon'ble Court and, in good faith, believed that the appropriate and efficacious remedy was being pursued.

3. That the record of the case unequivocally demonstrates that the Applicant continuously and bona fide pursued the matter before the competent forums within the time prescribed under the relevant provisions of the Income Tax Ordinance, 2001, and remained actively engaged in seeking redress of his grievance. The delay in approaching this Hon'ble Court occurred solely due to lack of proper legal awareness on the part of the Applicant and the professional limitation of the said counsel in invoking the constitutional and statutory jurisdiction of this Hon'ble Court for adjudication of the substantial and important questions of law arising out of the impugned order.

4. That it is a settled principle of law that a litigant should not be penalized for an error or omission on the part of his counsel, particularly where the conduct of the Applicant has been bona fide and free from negligence. The present case squarely falls within the ambit of "sufficient cause" for condonation of delay. and no prejudice whatsoever shall be caused to the Respondents if the delay is condoned, whereas grave and irreparable loss would be caused to the Applicant if the same is not condoned.”

Learned counsel insisted that the matter ought to be decided on merit rather than on mere technicalities of limitation.

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

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.

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. It is pertinent to observe that the preponderant bar of limitation could not be dispelled by the applicant.

No case is pleaded and / or articulated to merit grant of this application as the delay remains *prima facie* unjustified. Therefore, CMA No.132/2026 is dismissed and consequently this reference is dismissed *in limine* as being barred by limitation.

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.

Judge

Judge

Amjad PS

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.