

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application No.100 of 2026

DATE

ORDER WITH SIGNATURE OF JUDGE

Fresh case

1. For order on office objection
2. For order on CMA No.877/2026
3. For order on CMA No.878/2026
4. For hearing of main case

18.05.2026

Mr. Muhammad Immad Qamar, Advocate for the applicant

This reference impugns order dated 06.02.2026 rendered by the learned Tribunal where by the applicant has been non-suited on the ground of limitation.

The operative part of the impugned judgment reads as follows:

14. The primary ground raised by the appellant for condonation of delay is non-service of the impugned order dated 14-06-2025 in accordance with section 218 of the Income Tax Ordinance, 2001.

It is an established principle of law that under section 218(1)(b) of the Ordinance that service of notice or order through registered post or courier at the address provided by the taxpayer in the registration profile constitutes valid service. The Department has produced documentary evidence showing that the impugned order was served upon the appellant through courier (Consignment No. 31442842114) on 16-06-2025, at the address reflected in the registration profile. Delivery reports produced by the Department further indicate that the courier was successfully delivered and acknowledged.

15. The appellant filed rebuttal and contended that the courier slip produced by the Department shows an incorrect address and that the courier number does not reflect tracking history concerning service. In support, the AR relied upon a tenancy agreement and the appellant's registration profile. asserting that the correct business address is Plot No. D-48-F, Ground Floor, SITE, Siemens Chowrangi, Karachi.

The Department, however, has filed the appellant's Registration Form demonstrating that, even to date, both addresses appear in the registration profile. It is further noted that the modification order, inserting the new address was passed on 22.11.2025, i.e. even after the instant appeal had already been filed before this Tribunal on 25.08.2025. This indicates that the impugned order was accordingly rightly served at the only address given in registration profile of the Appellant. The Bench also observes that in the titled appeal itself, the appellant has mentioned the address of appellant as Plot No. 148, Sector-30, Korangi Industrial Area, Korangi, Karachi, which is the address exactly where impugned order was served.

16. It is evident that the delay of 42 days in filing the appeal is attributable solely to the appellant's claim of non-service, which is not substantiated on record. The Department has complied with the statutory procedure for service under section 218(1)(b) of the

Ordinance. In this regard reliance is also placed on the recent judgment of the Hon'ble High Court at Peshawar in

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17. In view of the above, we are of the considered view that the appellant has failed to demonstrate sufficient cause for condonation of the delay in filing the appeal. Reliance in this regard is placed on a reported judgment of Hon'ble Sindh High Court reported as PLD 2020 Sindh 136. The Hon'ble Sindh Court in the judgment has held as under:

"It is a settled proposition of law that law helps the vigilant and not the indolent and after the expiry of the limitation period a vested right is always created in favour of the other side. Reference in this regard may be made to the decisions given by the Hon'ble Supreme Court of Pakistan in the cases of Muhammad Nawaz and 3 others v. Mst. Sakina Bibi and 3 others (1974 SCMR 223) and Central Board of Revenue, Islamabad through Collector of Customs. Sialkot Dry Port. Samberial District Sialkot and others v. Messrs Raja Industries (Pvt.) Ltd. through General Manager and 3 others (1998 SCMR 307). Once limitation starts it could only be condoned after considering valid and cogent reasons for the same. Matter has been examined minutely by us, however, unfortunately the factors for condoning the delay are totally lacking in the instant matter. It is also a settled proposition of law that delays are condoned when reasonable and plausible reasons for the same are given but a perusal of the affidavit and the application clearly demonstrate that neither plausible reasons nor justification have been given for filing the HCA late, rather, there is, in fact, no ground either in the affidavit or in the application justifying the cause of delay. It is also a settled proposition of law that it is the bounden duty of the Court to dismiss a lis before it if the same is barred by limitation and no plausible explanation has been furnished, with regard to such delay. We need not to cite decisions or case law on the above legal propositions since the same are quite settled by now."

18. In addition to above, we are of the view that object of law of limitation is to help the vigilant and not the indolent. The party/applicant should explain each and every day of delay in filing appeal. In Qureshi Salt v. Muslim Commercial Bank (1999 SCMR 2353), the Hon'ble Supreme Court ruled on the issue of filing applications within the prescribed limitation period and the condonation of delay. The Court emphasized that under section 5 of Act 1908, each day's delay must be individually explained to the court. Thus, a sufficient reason for the delay must be provided in the application. Additionally, in SKB-KNK Joint Venture v. Water & Power Development Authority (2022 SCMR 1615), Lal Khan v. Muhammad Yousaf (PLD 2011 SC 657) and Shahid Pervaiz v. Muhammad Ahmad Ameen (2006 SCMR 631), the Supreme Court affirmed that limitation cannot be taken as a mere technicality as by expiry of period of limitation, valuable rights accrue to the other party, and every day's delay must be satisfactorily justified.

19. It is crucial to underscore the significance of the law of limitation. This legal framework mandates that courts must initially ascertain whether the proceedings filed therein adhere to the stipulated time frame. Such scrutiny is obligatory for the courts,

irrespective of whether any objection has been raised to that effect. The Superior Courts have consistently emphasized that even a delay of a single day could warrant dismissal. Once the limitation period begins, it continues uninterrupted (ie. runs continuously), creating vested rights in favor of the opposing party. Consequently, if a matter becomes time-barred, it must be dismissed without delving into the merits.

20. Furthermore, once the limitation period expires, the avenue for adjudication is closed, regardless of pleas of hardship, injustice, or ignorance. Further, negligence to file appeal must have its reward to punish the indolent.

21. In view of the foregoing, we are of the considered opinion that the counter containing the impugned order was duly and validly served upon the appellant in accordance with section 218(1)(b) of the Ordinance. The plea of non-service is therefore unfounded, and the explanation offered for the delay 49 not constitute sufficient cause for condonation.

22. Miscellaneous Application seeking condonation of delay is dismissed which consequently results in the dismissal of the main appeal as being time barred. Accordingly, the captioned ITA along with the Miscellaneous Application (Condonation) stand decided in the above terms.”

Learned counsel has not been able to distinguish or displace the findings contained in the impugned order nor has he been able to demonstrate that the conclusion could not be rested thereupon. It is settled law that the issue of limitation as to be addressed by the Court at the very outset and the same appears to have been done by the learned Tribunal. Since no question of law has been articulated before us meriting interference in the reference jurisdiction, therefore, this reference application is dismissed *in limine*.

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

Asif