

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 205 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.1823/2026.
2. For orders on office objection No.28.
3. For orders on CMA No.1824/2026.
4. For orders on CMA No.1825/2026.
5. For hearing of main case.

31.08.2026

Mr. Faheem Shah, advocate for the applicant.

1. Urgency granted.

2to5. The impugned order is rested on the preponderance observations that appeal is time barred. The operative part of the judgment reads as follows:

“10. We have heard the learned representatives of both the sides and have carefully perused the record available before us. Before advertng to the merits of the appeal, it is it is near to determine whether the appellant has succeeded in establishing sufficient cause for condonation of the admitted delay of 1,164 days in filing the instant appeal.”

11. The undisputed facts emerging from the record are that the appellant nad himself instituted the first appeal before the learned CIR(A) during the appellate proceedings, hearing notices were issued through the IRIS portal and admittedly participated in such proceedings through his Authorized Representative. Thereafter, the learned CIR(A) passed, the impugned order on 10.02.2023

12. The case set up by the appellant is that the impugned order was never served upon him and that he came to know about its existence only on 24.03.2026 through his bank. It has further been asserted that a certified copy of the impugned order was subsequently obtained from the office of the learned CIR(A) on 23.04.2026, whereafter the present appeal was filed on 11.05.2026.

13. We have examined the record in the light of the above plea and find ourselves unable to accept the explanation furnished by the appellant. The documents annexed with the appeal itself materially contradict the appellant's stated version. The application for condonation of delay bears the date 24.04 2026 Likewise, the memorandum of appeal appears to have originally been prepared on the same date, although the date appearing thereon subsequently appears to have been altered/overwritten so as to reflect 20.05.2026

14. More importantly, we have noticed that along with the memorandum of appeal, the appellant has filed the mandatory undertaking and certificate, both dated 24.04.2026, Accompanying the said certificate is an intimation letter addressed to the respondents whereby they were informed of the appellant's intention to file an appeal before this Tribunal. Significantly, A copy of the memorandum of appeal had also been enclosed with

the said Intimation- The courier receipt plated or record evidences of those documents on 18.04.2026.

15. The aforesaid documentary evidence leaves little room for doubt that appellant was already in possession of the impugned order, at least much prior to 28.04.2026, and had prepared the present appeal well before the dates now being projected in support of the application for condonation of delay. The record, therefore, completely belies the appellant's assertion that knowledge of the impugned order was acquired only in the manner and on the dates pleaded before us. Rather, the contemporaneous documentary evidence produced by the appellant himself renders his explanation wholly unreliable and devoid of credibility.

16. Furthermore, even if, for the sake of argument, the appellant's contention is accepted that he became aware of the impugned order on 24.03.2026 through his bank, such knowledge itself imposed an obligation upon him to exercise due diligence. The appellant admittedly had access to the IRIS portal and had actively participated in the appellate proceedings before the learned CIR(A). In such circumstances, a prudent litigant, upon learning of the existence of an adverse appellate order, would have immediately accessed the electronic record available on the IRIS system rather than remaining inactive and waiting for another month to obtain a physical copy from the office of the learned CIR(A). The conduct displayed by the appellant is inconsistent with the degree of vigilance expected from a litigant seeking equitable relief under section 5 of the Limitation Act, 1908.

17. It is settled law that condonation of delay is not a matter of right but a discretionary relief, which can only be extended where the applicant demonstrates sufficient cause preventing him from pursuing the remedy within the prescribed period of limitation. A party seeking such indulgence is required not only to approach the Court with clean hands but also to furnish a satisfactory and convincing explanation covering the entire period of delay.

18. In the present case, the explanation advanced by the appellant is neither plausible nor supported by the record. On the contrary, the material before us suggests suppression of material facts and an attempt to project a narrative which is inconsistent with the documentary evidence produced by the appellant himself. Even otherwise, assuming for the sake of the appellant acquired knowledge of the impugned order on as alleged, no explanation whatsoever has been furnished regarding the period that followed such knowledge, the appellant has neither provided any chronology nor any day-to-day account explaining what prevented him from immediately accessing the order or pursuing the available legal remedy. More particularly, no reason has been assigned as to why, after allegedly becoming aware of the impugned order on 24.03.2026, the appellant waited for almost one month before approaching the office of the learned CIR(A) and obtaining a copy thereof on 23.04.2026. This unexplained period assumes greater significance in view of the fact that the appellant admittedly had access to the IRIS portal and had actively participated in the appellate proceedings before the learned CIR(A). Accordingly, even the delay computed from the appellant's own asserted date of knowledge remains wholly unexplained.

19. 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. In this regard, reliance 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 rights 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 others v Mst Sakina Bibi and 3 others (1974 SCMA 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 but a perusal of the affidavit and the application clearly Sven for filing the HCA late, rather, there is, in fact, no ground either the affidavit or in the application justifying the cause of delay. It also a settled proposition of law that it is the abundant duty of the Court to dismiss a lis before 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."

20. 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/appellant 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, delay cannot be condoned without an application, as 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. 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: uninterrupted i.e. runs continuously), creating vested rights in favor of the opposing party. Consequently, if a matter becomes time-barred, it must be dismissed without delaying into the merits. 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 discussion, we are of the considered opinion that the appellant has failed to establish sufficient cause for condonation of the delay in filing of appeal. Consequently, the Miscellaneous Application seeking condonation of delay is hereby dismissed. Resultantly, the instant appeal being hopelessly barred of limitation, is also dismissed as time barred."

Learned counsel for the applicant pivots its case on the assertion that the impugned order ought to have been rested on merits and applicant could not be non-suited on the mere technicality of limitation. The questions of law had been pleaded that are prima facie argumentative in nature and/or seek denovo adjudication of evidence.

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

It is settled law that question of limitation has to be addressed by the court at the very onset, each day of delay has to be justified by the applicant. In the present case the applicant has not justified the delay before the Appellate Tribunal or before us, hence, 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

Khuhro/PS

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.