

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 202 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.2513/2025.
2. For orders on CMA No.2514/2025.
3. For hearing of main case.
4. For orders on CMA No.2515/2025.

03.09.2026

Dr. Shahab Imam, advocate for the applicant.

CMA 2513/2025 admits that matter is time barred and rationale pleaded to have the delay condoned is particularized in paragraphs 3 and 4 thereof, which read as follows:

“3. That a minor delay of less than a week has occasioned in filing of Sindh Instant SCRA which was mainly due to the reason that the Applicant was procuring necessary data for preparing a proper Reference Application, so also, the undersigned Authorized representative of the Applicant was suffering from viral flu and fever for the last many days, hence could not come to this Hon'ble Court for biometric verification. The delay caused is neither deliberate nor intentional.

4. That it has been held by the Superior Courts that matters must be decided on merits rather than technicalities, therefore, the minor delay caused in filing of instant SCRA may kindly be condoned in the interest of justice. Reliance is placed on the case of HAD v. Abdul Majeed reported as PLD 2002 SC 84 in which, at Para-91, the Hon'ble Supreme Court held that:

"....Therefore, keeping in view the merits of the case which have been discussed hereinabove we are of the opinion that if there is delay of 8 days in filing the appeal that is to be condoned in the interest of justice because merely for such technical reason appellant cannot be non-suited and the impugned order dated 4th November, 1999 passed by the High Court cannot be upheld which on face of it is not sustainable in the eye of law as it has been pointed out hereinabove while discussing the merit of the case. Therefore, while condoning the delay it is held that the appeals were duly instituted. Even otherwise in such-like situation the Courts should not feel reluctant in condoning the delay depending upon facts of the case under-consideration.”

Vide order dated 12.12.2025, the application seeking delay to be condoned was dismissed. Thereafter, new counsel was engaged to reagitate the matter; vide review. Upon notice, the department's counsel recorded his consent to the review, hence, the order dated 27.04.2026.

Today, the application has been heard afresh and respectfully the grounds pleaded could not be construed to condone the admitted delay.

The new counsel once again articulated that the merits of a case ought to displace any ouster on the technicality of limitation. Respectfully, limitation is not a mere technicality and disregard thereof would render entire law of limitation otiose¹. The Superior Courts have maintained that Courts must first determine whether the proceedings filed there before

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

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 admitted bar of limitation could not be dispelled by the applicant's learned counsel.

Therefore, CMA 2513/2025 is found to be devoid of merit, hence dismissed; consequently, the 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 Customs Appellate Tribunal, as required per section 196(10) of the Customs Act, 1969.

Judge

Judge

Khuhro/PS

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.