

IN THE HIGH COURT OF SINDH AT KARACHI
(Extraordinary Reference Jurisdiction)

I.T.R.A. No. 290 of 2019

Date	Order with signature of Judge
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Present:

Mr. Justice Aqeel Ahmed Abbasi
Justice Mrs. Rashida Asad

Fresh Case

1. For orders on office objection No. 24.
2. For orders on Misc. No.433/2019.
3. For hearing of Main Case.

27.10.2020:

Mr. Muhammad Aqeel Qureshi, advocate for the applicant.

ORDER

1. Instant Income Tax Reference Application arises against the order dated 08.03.2019 passed by the Appellate Tribunal Inland Revenue (Pakistan) Karachi in ITA No.817/KB of 2018, whereby, five questions have been proposed by the applicant, which includes a question regarding limitation, whereas, an opinion has sought from this Court to the effect that instant Reference Application has been filed within the statutory period provided under the provision of Section 133(1) of the Income Tax Ordinance, 2001. Before the learned counsel could refer to the merits of the remaining questions, learned counsel for the applicant was confronted to assist this Court as to how instant Reference Application has been filed within the statutory period of ninety days in terms of sub-section (7) of Section 132 of the Income Tax Ordinance, 2001 as

the Reference has been filed on 05.08.2019 after expiry of period of limitation as referred to hereinabove, in response to such query of the Court, learned counsel for the applicant could not submit any reasonable explanation, however, candidly stated that the order passed by the Appellate Tribunal was received in the office of the concerned Commissioner on 18.03.2019 and if the period of ninety days is to be calculated from such date, it expires on 16.06.2019, whereas, instant reference application has been filed on 05.08.2019. Learned counsel was also confronted to assist as to whether any application seeking condonation of period of limitation has been filed alongwith instant Reference Application, explaining the reasons for such delay, in response, learned counsel submitted that no such application has been filed alongwith instant Reference Application seeking condonation of period of limitation as provided under the statutory provisions of law.

2. Perusal of hereinabove facts and circumstances of the case, reflects that instant Reference Application has been filed after expiry of limitation period as provided under Section 133(1) of the Income Tax Ordinance, 2001, whereas, no reasonable explanation whatsoever has been given by the learned counsel for the applicant in this regard, which could otherwise justify condonation of delay in filing instant Reference Application. Moreover, no application for seeking condonation of delay has been filed by the applicant for consideration by this Court. It is settled legal principle that delay of each and every day has to be explained meticulously in a reasonable manner by an aggrieved party, while seeking condonation of delay in filing Reference or Appeal after expiry of period of limitation as the case may be, because a substantial right is created in favour of succeeding party, which cannot be taken away in favour of defaulting party, unless some reasonable grounds exist to condone the delay in filing Appeal/Reference, as the case may be.

3. In view of hereinabove factual and legal position, instant Income Tax Reference Application, which is admittedly filed after expiry of period of limitation as provided under Section 133(1) of the Income Tax Ordinance, 2001 without any reasonable explanation, is hereby dismissed in limine for being time-barred alongwith listed application.

JUDGE

JUDGE

A.S.