ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application 193 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE

<u>Fresh Case</u>

1. For orders on CMA 1654/2026.
2. For orders on CMA 1655/2026.
3. For hearing of main case.

<u>06.08.2026</u>

Mr. Manzoor Hameed Arain, advocate for the applicant.

1. Urgency granted.

2. Exemption is granted subject to all just exceptions.

3. This reference impugns the order dated 15.06.2026 whereby the learned Tribunal has dismissed an application seeking for delay of 566 days to be condoned and as a consequence thereof, dismissed the appeal. The uncontroverted narrative holds that the appellant / applicant approached the first appellate forum after a delay of approximately 621 days and thereafter approached the Tribunal with further delay of 566 days. The explanation furnished was found unsatisfactory, hence, the impugned order. It is considered appropriate to reproduce the operative part of the impugned order herein below:

> *"6. Once the plea of non-service fails, the consequential plea of want of knowledge also loses its foundation. A taxpayer who admittedly continued to access the IRIS portal cannot, in the absence of cogent and credible evidence, plead ignorance of an order transmitted to the same electronic account. No such material has been placed before us. The record further reflects that the Appellant approached the first appellate forum after a delay of approximately 621 days and has now approached this Tribunal after a further delay of 556 days. The explanation furnished neither accounts for the delay with the requisite diligence and particularity nor discloses any circumstance beyond the Appellant's control. It reflects a lack of due vigilance and, therefore, does not constitute sufficient cause for condonation of the otherwise unexplained delay.*
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> *7. It is settled law that limitation is not a mere technical rule capable of being ignored on equitable considerations. Upon expiry of the prescribed period, a valuable right accrues in favour of the other side, and such right cannot be disturbed unless the delay is explained through valid, cogent and credible reasons. In this regard, reliance is placed on a judgment of the Honourable Sindh High Court reported as PLD 2020 Sindh 136, wherein it was held as under:*
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>> *"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."*

8. The Honourable Supreme Court has reiterated these principles in recent and binding pronouncements. In Muhammad Faisal (Prop. F.A. Traders), Lahore v. Commissioner Inland Revenue, Zone-II, RTO-Π, Lahore (2025 SCMR 930), it was observed that "limitation is not a mere technicality, as once limitation expires a vested right is created in favour of the other side by operation of law, which cannot be taken away lightly". Likewise, in Collector of Customs, MCC (E, C), Customs House, Peshawar v. Zain ul Abidin ([2023] 127 TAX 297), the Honourable Supreme Court held that "if decisions are assailed they should be done within the prescribed period, and it should not be assumed that delay would be condoned when there is no valid reason to condone the same" These pronouncements, being binding under Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973, leave no room for condoning an unexplained and avoidable delay.

9. Hence, the doctrine of limitation rests on the settled premise that the law assists the litigant and not the indolent; that each day of the delay must be explained with cogency and credibility: and that negligence in approaching the appellate forum must be visited with the consequence prescribed by law. The submission that limitation is merely procedural and should yield to substantive justice cannot be accepted in the facts of the present case.

10. In view of the foregoing, we are constrained to hold that the Appellant has failed to establish sufficient cause for condonation of delay in filing the present appeal. M.A. (Cond.) No. 2352/KB/2026 is, therefore, rejected. Consequently, the main appeal, being barred by limitation, is dismissed in limine. In view of dismissal of the appeal, M.A. (Stay) No. 2409/KH/2026 has become infructuous and is disposed of accordingly.

11. Order pronounced accordingly. The appeal stands disposed of in the manner stated hereinabove."

The crux of the learned counsel's arguments is that the underlying order was illegal / void, therefore, adjudication was merited on the facts and circumstances of the case and the applicant could not have been non-suited on mere technicality 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 otiose[1]. 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 regard[2]. 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 dismissed[3]; once time begins to run, it runs continuously[4]; a bar of limitation creates vested rights in favour of the other party[5]; if a matter was time barred then it is to be dismissed without touching upon merits[6]; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance[7]. It has been maintained by the honorable Supreme Court[8] 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.

Learned counsel remained unable to demonstrate any infirmity in respect of the impugned and further remains unable to articulate any question of law meriting invocation of reference jurisdiction. Therefore, the reference application is hereby 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

M. Khan

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[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*.