

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 52 of 2018

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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1. For orders on CMA No.54/2018
2. For hearing of main case

**07.08.2026**

Mr. Mukesh Kumar Khatri, advocate for the applicant  
Mr. Ovais Ali Shah, advocate for respondent

CMA No.54 of 2018. This is an application under Section 5 of Limitation Act, 1908 seeking for the delay in filing of the reference application to be condoned.

The affidavit in support carries only one ground which is paragraph No.3. The ground states that the impugned order was received, however, sorting and routing thereof took time hence the delay.

Learned counsel for the respondent opposes the application and states that the applicant admits receipt, however, the ground for delay is prima-facie un-justifiable and under no situation can it be considered on the presumption of the same being meagre.

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<sup>1</sup>. 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<sup>2</sup>. The Superior Courts have held that proceedings barred by even a day could be dismissed<sup>3</sup>; once time begins to run, it runs continuously<sup>4</sup>; a bar of limitation creates vested rights in favour of the other party<sup>5</sup>; if a matter was time barred then it is to be

<sup>1</sup> *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.  
<sup>2</sup> *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.  
<sup>3</sup> 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.  
<sup>4</sup> *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.  
<sup>5</sup> *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.

dismissed without touching upon merits<sup>6</sup>; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance<sup>7</sup>. It has been maintained by the honorable Supreme Court<sup>8</sup> 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.

No case is pleaded and / or articulated to merit grant of this application as the delay remains *prima facie* unjustified. Therefore, CMA No.54/2018 is dismissed and consequently this reference is dismissed as being barred by limitation.

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

Amjad

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<sup>6</sup> *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.

<sup>7</sup> *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.

<sup>8</sup> *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.