

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application 204 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on CMA 1298/2025
2. For orders on office objection No.1 & 11
3. For hearing of CMA No.1300/2025
4. For hearing of main case

16.09.2025

Mr. Muhammad Aleem, advocate for the petitioner.
Mr. Ghulam Asghar Pathan, advocate for the respondent.

1. The present reference application is admittedly time barred. Per learned counsel of the applicant the delay is of about two months. Paragraph 1 of the memorandum of application pleads a 54 days delay.

The impugned order is dated 11.02.2025 and counsel articulates no cavil of the discernable fact that the order reflects the presence of the applicant’s representation. The present reference application was preferred on 06.05.2025, being almost three months hence. The first ground raised was that the brother of the applicant was ill. Respectfully that did not appear to have cogent justification for the delay. Second ground raised was that the order was received by the applicant on 05.04.2025 even then the date of presentation demonstrated that the reference is time barred.

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

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 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. No cogent reason has been articulated before us to consider condoning the delay; therefore, this application is dismissed.

2 till 4. Consequently, this reference application and pending application/s are dismissed as being time-barred.

Judge

Judge

M. Khan

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.