

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Income Tax Reference Application No.12 of 2026

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DATE	ORDER WITH SIGNATURE OF JUDGE
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Fresh case

1. For order on CMA No.173/2026
2. For hearing of main case

**29.04.2026**

Mr. Imran Ali Abro, Advocate for the applicant

The applicant has impugned order dated 03.11.2025 rendered by the learned Appellate Tribunal Inland Revenue whereby an application filed by the present applicant seeking for delay of 793 days to be condoned was dismissed. The relevant observations are stated herein below:

**FAKHAR-UL-ZAMAN AKHTAR, MEMBER:** The registered person /appellant has filed miscellaneous application bearing MA (Cond.) No. 1198/KB/2025 for condonation of 793 days delay in appeal ITA No.1945/KB/2024 against Impugned Order dated 22.06.2022 with submission that the order as well as recovery notice u/s.138 were not served to the appellant who came to know on withdrawal of amount at Rs.3,700,712/- by the respondent on 29.08.2024 from the Bank Account maintained at Bank Al-Habib Limited, Parco Branch Kot Addu, Qasba Gujrat, Muzaffar Garh, and subsequently filed appeal before this Tribunal with delay of 793 days which is neither willful nor intentional but beyond control of the applicant.

2. On the date of hearing, Mr. Gulsher Mari, Advocate represented the applicant/taxpayer while Mr. Naseer Ahmed, DR appeared on behalf of the respondent/department.

3. We have carefully considered the submissions made by the learned AR; however, we are not persuaded to agree with the taxpayer's explanation, as he has failed to justify the extraordinary delay in filing the appeal. In the absence of any plausible reason to explain the inordinate delay of 793 days, the appeal remains time-barred and, consequently, not maintainable. In such circumstances, where an appeal is not filed within the prescribed limitation period, it is incumbent upon the taxpayer to file the appeal along with an application for condonation of delay, duly setting out the reasons for such delay. Rule 17 of the ATIR Rules, 2023, is directly applicable in this context, as it prescribes the procedure for filing a time-barred appeal before this Tribunal. For ease of reference and brevity, the said rule is reproduced below:

“17. Appellant to explain delay. (1) Upon the presentation of a memorandum of appeal or application, the Registrar or the officer authorized under rule 8 shall examine the copy of the order appealed against and shall ascertain whether, after allowing the time given by the relevant law the

memorandum of appeal or application has been presented within time.

(2) If the memorandum of appeal or application appears to be presented after the time prescribed by relevant law, a note to this effect shall be recorded by the Registrar or by the officer so authorized, as the case may be.

(3) Where the appellant or the applicant has not tendered, with the memorandum of appeal or application, any explanation in writing setting out the reasons for the delay, the Tribunal may allow the appellant or applicant to submit an explanation in writing and upon sufficient cause having been shown, may admit the appeal or application for hearing.

4. Moreover, the reliance in this regard is placed on a reported judgment of Honorable Sindh High Court reported as PLD 2020 Sindh 136. The Honourable Sindh Court in the judgment has held as under: -

"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 case of Muhammad Nawaz and 3 others. 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 law."

5. In addition to the above, we are of the considered view that the law of limitation is intended to protect the vigilant and not the indolent. It is well settled that a party or applicant must satisfactorily explain each day's delay in filing

an appeal. Negligence or inaction in pursuing a legal remedy cannot be rewarded, as doing so would defeat the very object of the limitation law. In this regard, the apex courts have consistently declined to condone delays in filing references or appeals, observing as under:

2023 PTD 56 (H.C.Pesh)

S.86(2)-Limitation Act (IX of 1903), 55---Sales Tax on services---Reference to High Court---Limitation---Condonation of delay---Sales Tax Reference was filed beyond stipulated period of sixty days---Order in question was passed on 12-04-2022, certified copy was issued to authorities on 15-04-2022, whereas Reference application was filed on 07-07-2022---Effect---Sales Tax Reference was barred by 24 days---Object of law of limitation was to help the vigilant and not the indolent---Law of limitation was required to be construed strictly---Each day of delay was to be explained by the party concerned---Government department could not be treated differently than private individual on the question of limitation---Authorities failed to offer any plausible explanation for condonation of delay in their application---Negligence to file Sales Tax Reference must have its reward to punish the indolent---High Court declined to condone the delay in filing of Sales Tax Reference---Reference was dismissed in circumstances.

2023 PTD 68 (H.C. Kar.)

S.196---Limitation Act (IX of 1908), S.5---Reference---Limitation---Condonation of delay---Government department, entitlement of---Force majeure---Authorities sought condonation of delay in filing of Reference on the plea of force majeure and misplacement of order of Customs Appellate Tribunal---Validity---Each day's delay was to be satisfactorily explained in time barred matters. No sufficient cause existed which prevented authorities in filing Reference in time---Issue of limitation was always a mixed question of law and fact was to be decided on the ground of circumstances obtaining in the matter---Such reason for delay was not plausible. Government departments or autonomous bodies and their cases had to be dealt with in the same manner as that of an ordinary litigant citizen---High Court declined to condone the delay caused in filing of Reference by authorities---Reference was dismissed, in circumstances.

2022 PTD 1103 (H.C. Lah.)

S. 67-A---Limitation Act (IX of 1908), S. 5---Qanun-e-Shahadat (10 of 1984), Art. 129(e)---Reference to the High Court---Limitation---condonation of delay---Sufficient cause---Presumption as to judicial proceedings---scope---Applicant assailed order passed by Appellate Tribunal after 691 days and claimed that the impugned order was not communicated by the Appellate Tribunal---Held, that applicant had not contended that the order was reserved or was kept in wanting for orders nor had the applicant made any effort to

ascertain as to whether the order was passed by the Appellate Tribunal---No document was produced by the applicant to show that the copy of impugned order was not sent to it---Presumption of correctness was attached to the judicial proceedings in terms of Art. 129(e) of the Qanun-e-Shahadat, 1984 and in order to displace the same, some evidence was required to be produced by the applicant along with application for condonation so as to make out a case for condonation of delay---Delay in filing proceedings could not be condoned lightly unless it was shown that there were sufficient reasons for causing the delay---Law of Limitation reduced on effect of extinguishment of a right of party when significant lapses occurred and when no sufficient cause of such lapses, delay or time-barred action was shown by defaulting party, the opposite party was entitled to a right accrued by such lapses---Negligence did not constitute sufficient cause to condone delay---Party seeking advantage of S. 5 of Limitation Act, 1908 must satisfy the Court that it had not been negligent and had been pursuing the case with due diligence and care---Reference application was time barred and the application for condonation of delay had not disclosed any cogent, convincing and justified reason for condonation of delay---Reference application was dismissed.

2020 SCMR 246 (S.C)

S. 196---Limitation Act (IX of 1908), S. 5---Reference to High Court---barred by eleven month---Condonation of delay---Grounds---Illness of special attorney---Not plausible or convincing ground---After dismissal of this appeal before the Appellate Tribunal, the petitioner waited for eleven months to file the Customs Reference before the High Court, which was hopelessly barred by time---Application for condonation of delay stated that the entire process was followed up by a special attorney of the petitioner---Said special attorney was allegedly a chronic patient of some disease and was therefore unable to file the Reference within time---Petitioner was unable to explain plausibly why he did not pursue the matter himself and why he was not following up the same---Plea/explanation that petitioner was not available and his special attorney was unwell were neither convincing nor plausible and did not constitute sufficient grounds for condonation of delay for about eleven months---Petition for leave to appeal was dismissed and leave was refused

6. In light of the above discussion and precedent, we find no merit in the present condonation application. The delay remains unjustified, unreasonable, and excessive in the absence of credible evidence or valid cause. The reasons advanced by the appellant are neither convincing nor legally sufficient to justify condonation of a 793 days delay. The appeal bearing ITA No.1945/KB/2024 is, therefore, barred by limitation, and the application for condonation bearing MA (Cond.) No. 1198/KB/2025 stands dismissed.

Consequently, the condonation application and appeal are disposed of in above manner

It is settled law that any judicial forum is required to adjudicate the issue of limitation prior to any other proceedings in the matter. In the present case there is an admitted delay of 793 days, hence, the application for the same to be condoned. Law requires each and every day of delay to be justified and it is apparent that the same could not be done before the learned Tribunal. The learned counsel remains unable to distinguish or displace the findings contained in the impugned order nor has he been able to justify that the conclusion could not be rested there upon. Since no question of law has been articulated before us, therefore, this 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 Appellate Tribunal, as required per section 133(8) of the Income Tax Ordinance, 2001.

Judge

Judge

*Asif*