

THE COMPETITION APPELLATE TRIBUNAL2ND Floor, Federal Courts Complex, G-11/1, Islamabademail: registrartribunal@gmail.com

Tel No: 051-9320208, Fax No: 051-9320203

No. 27(ii) /Reg./CAT/2026Dated: 18-02-2026

In re:

SILK BANK LIMITED & OTHER 9 SIMILAR CASES OF BANKS
 (HBL, MCB, ATLAS BANK LTD, ABL, NATIONAL BANK, N.I.B, PAKISTAN BANKS ASSOCIATION,
 UBL, ROYAL BANK OF SCOTLAND)

Vs.

COMPETITION COMMISSION OF PAKISTAN**NOTICE****APPEAL NO. 10/2025 TO APPEAL NO. 19/2025)**

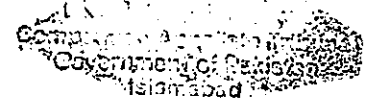
Take notice that under rule 51 of the Competition Appellate Tribunal Rules, 2015, attested copies of the judgment dated **17-02-2026** is enclosed for information and record.

S.No.	Appeal No.	Case Title	S.No.	Appeal No.	Case Title
01	10/2025	Silk Bank Ltd	06	15/2025	National Bank Ltd
02	11/2025	HBL	07	16/2025	N.I.B
03	12/2025	MCB	08	17/2025	Pakistan Banks Association
04	13/2025	Atlas Bank Ltd	09	18/2025	UBL
05	14/2025	ABL	10	19/2025	Royal Bank of Scotland

Given under my hand and seal of the Tribunal, on this **18th day of February, 2026.**



(MUSTAJAB ALAM)
Registrar



1. **Mandviwalla and Zafar**
 Advocate and Legal Consultants,
 C-15, Block 2, Clifton, **Karachi.**
 (Hassan Mandviwalla 0300-8285642)

✓ 2. **Competition Commission of Pakistan,**
 ISE Tower, 7th Floor, 55-B, Jinnah Avenue,
Islamabad.



THE COMPETITION APPELLATE TRIBUNAL, ISLAMABAD.

Before: Mr. Justice Muhammad Junaid Ghaffar, Chairman
Dr. Faiz Illahi Memon, &
Mr. Asim Akram, Members Technical - I & II, respectively.

Date of Hearing: 22-01-2026
Date of Judgment: 17-02-2026

Sr. No.	Appeal No.	Appellant
1	10 of 2025	Silk Bank Limited
2	11 of 2025	Habib Bank Limited
3	12 of 2025	Muslim Commercial Bank Limited
4	13 of 2025	Atlas Bank Limited
5	14 of 2025	Allied Bank Limited
6	15 of 2025	National Bank Limited
7	16 of 2025	N.I.B. Bank Limited
8	17 of 2025	Pakistan Banks Association
9	18 of 2025	United Bank Limited
10	19 of 2025	Royal Bank of Scotland

Verses

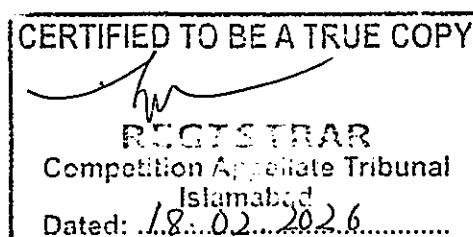
Respondent: Competition Commission of Pakistan, 55-B, 7th - 9th Floors,
ISE Towers, Jinnah Avenue, Blue Area, Islamabad;

For the appellants: Mr. Hassan Mandvivala, Advocate, counsel for the appellants.

For the respondents: Hafiz Naeem and Mr. Haider Afzal Khan, Legal Advisors for the
CCP.

JUDGMENT

Asim Akram, Member Technical - II: Through the titled appeals the appellants have assailed the order dated 10-06-2009 (*the impugned order*) passed by the Appellate Bench of the Competition Commission of Pakistan (*the Commission*). The impugned order dismissed the appeals filed against the final order dated 10-04-2008 whereby discontinuation directive regarding the Enhanced Saving Account (ESA) scheme was passed and different penalties, Rs.30 million on Pakistan Banks Association (*the PBA*) and Rs.25 million on each of the other eight appellant banks, were imposed having been found violative of Section 4 and

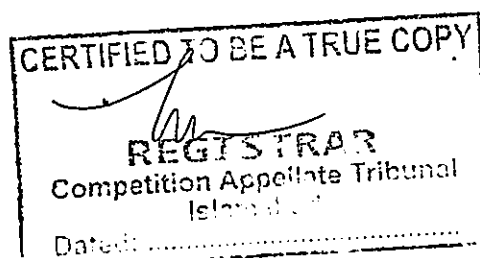


38(2) of the Competition Ordinance, 2007 (*the Ordinance*). The titled appeals involve similar question of law and facts accordingly they are being decided through this consolidated order.

2. *Suo moto* proceedings were initiated against the Pakistan Banks Association (*the PBA*) and its member banks due to a public announcement by the PBA of its decision and advertised in daily newspaper 'The News' on 05-11-2007. As per the advertisement under the auspices of the PBA all scheduled banks introduced the ESA having main characteristics of offering 4% profit per annum on accounts maintaining an average balance of Rs.20,000/- (Rupees twenty thousand only); all Profit and Loss Sharing Accounts (*PLS Accounts*) with an average balance of Rs. 20,000/- will be converted to ESA Accounts w.e.f. 31-10-2007; Rs.50/- (Rupees fifty only) per month will be deducted from the accounts which maintain a balance of less than Rs.5000/- (Rupees five thousand only) during the months. After preliminary inquiry the Commission initiated proceedings against the PBA and its forty-two members, except the Development Financial Institutions. A Show Cause Notice (*SCN*) dated 24-10-2007 was served; thereafter the final order dated 10-04-2008 was passed against the appellants while the remaining banks which did not introduced the ESA accounts were warned not to participate in such like activity.

3. The respondent, among others, raised the preliminary objection of limitation contending the first appeal being time barred. The counsel for the respondent argued that the final order was passed on 10-04-2008 and received by the appellants on 17-04-2008. The appellants approached the High Court of Sindh by filing Constitutional Petition No.983-D/2008 on 13-05-2008 and later on the first appeal was filed before the Appellate Bench of the Commission under Sec. 41 of the Ordinance on 18-11-2008 i.e. after an unexplained delay of 180 days. No reason for the inordinate delay in filing of the first appeal has been rendered to condone the delay.

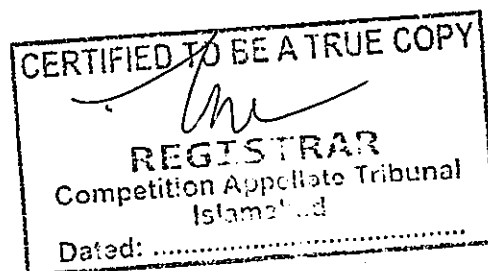
4. The appellants while opposing the objection of delay in filing of the first appeal contend that many questions of law and fact of the first impression relating to proper interpretation and application of the Ordinance was raised; a huge fine had been imposed; there is no third party rights involved in the present case that



would affect or would require strict application of the of limitation; the pendency of the constitutional petition wherein the appellants have challenged the legislative competence of the Federal legislature to enact the Ordinance, since it does not relate to any matter on either the Federal Legislative List or the Concurrent Legislative List; Sec. 41 and 42 of the Ordinance are ultra vires the Constitution.

5. Arguments heard record pursued. The proceedings against the appellants under Sec. 30 of the Ordinance were concluded by passing of the final order dated 10-04-2008. The respondent contend that the final order was delivered to the appellants on 17-04-2008; the fact not denied by the appellants. As per Sec. 41 of the Ordinance¹ the person aggrieved by an order made by any Member or authorized officer of the Commission may submit an appeal before the Appellant Bench of the Commission within thirty days of the passing of the order. The appellants instead of filing the appeals under Sec. 41 filed Constitutional Petition No.938-D/2008 on 13-05-2008 before the High Court of Sindh. In the said constitutional petition the appellants prayed that the show cause notice dated 24-12-2007 and the final order dated 10-04-2008 be quashed and set aside being without jurisdiction, void *ab initio* and without legal effect or lawful authority. They further prayed that the Federation of Pakistan and the Commission be restrained from taking or continuing any action or proceedings or passing any order in relation, under or pursuant to the final order. The learned High Court vide its interim order dated 27-05-2008 restricted the respondent from taking any coercive action in connection with the final order. The interim order was assailed by the respondents before the Supreme Court of Pakistan in CPLA No.715/2008. The Hon'ble Supreme Court disposed of the CPLA vide order dated 23-10-2008 upon undertaking by the respondent that it will not recover the fine, penalties from the appellants till the disposed of the stay applications, pending before the High Court of Sindh. The interim order, dated 27-05-2008, by the High Court was also declared infructuous. The Constitutional Petition No.938-D/2008 was dismissed / disposed of vide order dated 29-04-2025 by the High Court of Sindh.

Competition Ordinance, 2007



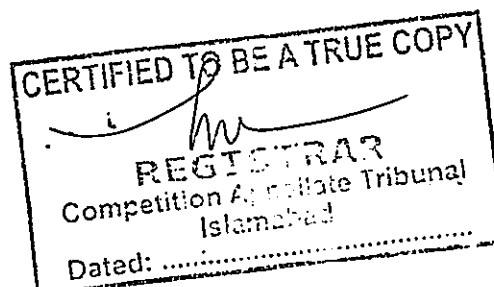
6. The final order dated 10-04-2008 as well as the Ordinance remained operative during the pendency of the Constitutional Petition No.938-D/2008 and CPLA No.715/2008; both the orders only directed the respondent not to recover the fine/penalties. The ordinance being operative the appellants neglected the filing of appeals under section 41 of the Ordinance. The appellants filed appeals under section 41 of the Ordinance before the Competition Appellant Bench on 18-11-2008 i.e. after a delay of six months (180 days). The appellants approached the High Court in constitutional petition challenging the jurisdiction and the Ordinance. It is not fault of the Court that the petitioners preferred appeal before the wrong forum so as to seek condonation of delay as provided under section 14 of the Limitation Act, 1908 because for extending benefit under the above said provision 'good faith' and 'due diligence' has to be proved, which is lacking in this case.² One who seeks condonation of delay has to explain each and every day delay but in the instant case, the petitioners could not put-forward reasonable and plausible justification/explanation for filing the appeal after about two years of passing of the judgment and decree by the trial Court and ground taken up by the petitioners that they preferred earlier appeal before the High Court cannot be considered as a reasonable justification.³ No sufficient cause for delay in filing of the first appeals has been brought on record. Challenging the jurisdiction of the Commission and the legislation through a constitutional petition and not filing the appeal before the forum as prescribed therein amounts to negligence, lack of bona fides, and deliberate inaction. The court cannot help a party who is careless or sleeps over its rights.⁴ The forum of jurisdiction of appeal is regulated by the act or ordinance under which the proceedings were initiated. In presence of Sec. 41 of the Ordinance there is no complication to determine the forum of appeal. Filing of a constitutional petition instead of an appeal, as provided in the Ordinance, is a negligence. The Supreme Court has repeatedly held that the time consumed in pursuing appeal before a wrong forum cannot be condoned under Sec. 5 of Limitation Act, 1908.⁵ Sec. 5 and 14 of the Limitation Act would come into play

² Secretary To Government of Khyber Pakhtunkhwa Communication and Works Department, Peshawar vs Messrs Parcon Associate Government Contractors (PLD 2025 SC 371)

³ Secretary To Government of Khyber Pakhtunkhwa Communication and Works Department, Peshawar vs Messrs Parcon Associate Government Contractors (PLD 2025 SC 371)

⁴ Basawaraj v. Special Land Acquisition Officer (2013) 14 SCC 81

⁵ Mst. Khadija Begum and 2 others v. Mst. Yasmeen and 4 others (PLD 2001 SC 355)



only if the delay appears to be after due diligence of the appellants. Bringing the case within the ambit of principles governing section 14, the petitioners have to show that they prosecuted their remedy before the wrong forum in good faith.⁶ Choosing wrong forum lacking due care and attention were not considered as acts done in good faith.⁷ In *Imtiaz Ali*⁸, the Supreme Court held that a delay of one day in filing of appeal cannot be condoned without disclosing a sufficient and plausible justification. It is settled law that where the first appeal is time barred the second appeal, before the Tribunal, carries no weight.

7. We do not agree with the appellants argument that there is no third party involved in the case which would affect right or require strict application of limitation. The respondent being a government entity is no ground for condonation of delay. Government departments are also treated like an ordinary party before the Court and the same treatment has to be given to the government department as is given to the ordinary litigants.⁹ Any government department, authority or subsidiary established by the government is a legal entity and carries equal rights and liabilities which exist for other legal persons. After the passing of the final order a right was created in favor of the respondent and against the appellants regarding the collection of the penalties; this right gained further weight after the ignorance of a delay of 180 days in filling of the first appeal.

8. For the foregoing reasons the appeals were dismissed by means of an order dated 21-01-2026.

S.d

Chairman

S.d

Member Technical - I

S.d

Member Technical - II

⁶ *Abdul Ghani v. Mst. Mussarat Rehana* (1985 CLC 2529)

⁷ *Government of Pakistan v. Rafi Associates Limited* (1985 CLC 2234 Kar.)

⁸ *Imtiaz Ali v. Atta Muhammad and another* (PLD 2008 Supreme Court 462)

⁹ *Messrs SKB-SNK Joint Venture Contractors through Regional Director v. Water and Power Development Authority and others* (2022 SCMR 1615)

