

IN THE HIGH COURT OF SINDH AT KARACHI
Income Tax Reference Application No. 419 of 2025

Present:

Mr. Justice Agha Faisal
Mr. Justice Shah Nawaz Memon

A.C. Technologies, Karachi

Applicant

Versus

The Commissioner Inland Revenue, Zone-III, Karachi

Respondent

Date of hearing: 12.10.2026

Date of decision: 12.10.2026

Applicant: Through Messrs. Faisal Rasheed Ghouri & Asif Ali,
Advocates.

Respondent: Through Mr. Sajjad Ali Solangi, Advocate.

J U D G M E N T

DR. SHAH NAWAZ MEMON, J.: — This reference under section 133 of the Income Tax Ordinance, 2001 (“the Ordinance”) concerns the final tax regime available to exporters of services under section 154A. The question is a narrow one. An exporter filed, for the first quarter of the tax year, a withholding statement that showed nothing, although during that quarter it had deducted and deposited tax from salaries and rent. Has it fulfilled the condition in clause (b) of sub-section (2) of section 154A, that the withholding tax statements for the tax year “have been filed”? If it has not, is the only consequence a penalty under section 182?

I. FACTS OF THE CASE

2. The applicant is an association of persons engaged in the export of information technology and IT-enabled services and registered with the Pakistan Software Export Board. For tax year 2023 it e-filed its return on 15.11.2023, declaring export receipts of Rs.229,906,949 and offering them to tax under section 154A at the reduced rate of 0.25%, that is, Rs.574,765. The return was treated as an assessment order under section 120(1).
3. On 06.08.2024 the Additional Commissioner Inland Revenue, Range-B, Zone-III, Corporate Tax Office, Karachi, issued notice under section 122(9) read with section 122(5A). Among other things, the applicant was asked to explain why its receipts should not be taxed under the normal tax regime, since the final tax regime is available only on fulfilment of the conditions in section 154A(2). After a change of jurisdiction and an extension of time under the proviso to section 122(9), the officer passed the amended assessment order dated 30.04.2025.
4. The finding that matters for present purposes is in paragraph 2.3 of that order. The officer found that the applicant had filed a blank withholding statement for the first quarter, July to September 2022. On verifying the payment record on

the Board's IRIS portal, he found eight payments of tax made by the applicant in that quarter, between 15.07.2022 and 06.09.2022, against salary of employees under section 149 and rent of property under section 155.¹ None of these appeared in the statement. He held the statement to be in breach of clause (b) of section 154A(2), treated the export receipts as subject to the normal tax regime, and raised a demand of Rs.79,032,325.

5. On appeal, the Appellate Tribunal Inland Revenue (ITA No. 565/KB/2025, order dated 22.10.2025) upheld the officer on the question of the final tax regime. It found that the deductions extracted from IRIS "remained unrebutted" and that the annual statement did not discharge the obligation to file the quarterly statement. However, it held that the officer had erred in applying the rate of tax to gross receipts. It therefore set the order aside to that extent and remanded the matter for computation of taxable income after admissible deductions and allowances. That remand is not before us.
6. We have looked at the statements on the record ourselves. The statement for the first quarter (period 01.07.2022 to 30.09.2022, acknowledged on 20.10.2022) contains no entries at all. For the second quarter (October to December 2022), the applicant first filed a statement and then, on 27.01.2023, a revised statement under section 165(2A) disclosing its deductions under sections 149 and 155. No revised statement was filed for the first quarter, then or later. The annual statement filed on 24.07.2023 records only tax deducted under section 155. The record does not show that the deductions of the first quarter were reported anywhere else or reconciled.

II. THE QUESTIONS PROPOSED

7. The memorandum of reference proposed seven questions. On 30.04.2026 the reference was admitted on the following two, and we confine ourselves to them:

"1. Whether under the facts and circumstances of the case, Appellate Tribunal IR erred in law in holding that the filing of a nil quarterly withholding tax statement constitutes non-fulfilment of the condition prescribed under Section 154A(2)(b) of the Income Tax Ordinance, 2001 and disentitled the appellant of its statutory right of being taxed under final tax regime, despite the fact that the tax has duly been deducted and deposited into National Exchequer and annual withholding statement has also been filed under Section 165(7), disclosing all actual deductions and ensuring complete compliance in substance?"

¹Section 149(1): "Every person responsible for paying salary to an employee shall, at the time of payment, deduct tax from the amount paid at the employee's average rate of tax ...". Section 155(1): "Every prescribed person making a payment in full or part (including a payment by way of advance) to any person on account of rent of immovable property ... shall deduct tax from the gross amount of rent paid at the rate specified in Division V of Part III of the First Schedule."

2. Whether under the facts and circumstances of the case, Appellate Tribunal IR misinterpreted the provisions of Section 154A(2)(b) by treating the Nil Quarterly Withholding Tax Statement as invalid and disentitled the appellant of its statutory right of being taxed under final tax regime despite that filing of withholding tax statements is a procedural requirement intended to ensure reporting uniformity only?”

III. SUBMISSIONS

8. Mr. Faisal Rasheed Ghouri, learned counsel for the applicant, submitted that the only requirement of the law for availing the final tax regime is that the statement be filed. It is not disputed that the statement for the first quarter was filed, though as a nil statement. The requirement having been complied with, the learned Tribunal erred in law in maintaining the officer's order moving the applicant from the final to the normal tax regime. He urged that the Ordinance itself provides the consequence of a wrong or incorrect filing, namely a penalty under section 182, and that this consequence cannot be enlarged into a denial of the final tax regime.
9. Mr. Sajjad Ali Solangi, learned counsel for the respondent department, supported the order of the learned Tribunal.

IV. THE STATUTORY FRAMEWORK

10. The question referred to us turns on the meaning of three provisions of the Ordinance: section 154A, section 169 and section 165. Since it is their meaning that we are asked to declare, we set out the relevant parts. Section 154A, so far as material, reads:

“154A. Export of Services.— (1) Every authorized dealer in foreign exchange shall, at the time of realization of foreign exchange proceeds on account of the following, deduct tax from the proceeds at the rates specified in Division IVA of Part III of the First Schedule —

(a) exports of computer software or IT services or IT enabled services where the exporter is registered with and duly certified by the Pakistan Software Export Board (PSEB);

...

(2) The tax deductible under this section shall be a final tax on the income arising from the transactions referred to in this section, upon fulfilment of the following conditions —

(a) return has been filed;

(b) withholding tax statements for the relevant tax year have been filed if required under the Ordinance; and

(c) sales tax returns under Federal or Provincial laws have been filed, if required under the law: Provided that this

condition shall not apply in case of an exporter mentioned in clause (a) of sub-section (1) of this section.

(d) no credit for foreign taxes paid shall be allowed.

(3) The provisions of sub-section (2) shall not apply to a person who does not fulfill the specified conditions or who opts not to be subject to final taxation:

Provided that the option shall be exercised every year at the time of filing of return under section 114.”²

11. Two features of the section stand out. Sub-section (2) does not make the tax deducted at the bank a final tax unconditionally. It does so “upon fulfilment of” the conditions that follow. And sub-section (3) itself states what happens when a condition is not fulfilled: sub-section (2) does not apply.
12. What final taxation means is set out in section 169, which applies, by clause (b) of its sub-section (1), where the tax required to be deducted is a final tax under sub-section (2) of section 154A. Sub-section (2) of section 169 provides:

“(2) Where this section applies —

 - (a) the income shall not be chargeable to tax under any head of income in computing the taxable income of the person;
 - (b) no deduction shall be allowable under this Ordinance for any expenditure incurred in deriving the income;
 - (c) the amount of the income shall not be reduced by — (i) any deductible allowance under Part IX of Chapter III; or (ii) the set off of any loss;
 - (d) the tax deducted shall not be reduced by any tax credit allowed under this Ordinance; ...”
13. The benefit is a substantial one. Final taxation takes the income out of the ordinary process of computation and assessment. The deduction made at the bank, here at 0.25% of gross receipts, discharges the liability on that income. The income is not computed on the basis of receipts, expenditure and profit, although the taxpayer’s affairs do not thereby pass beyond audit.³ For an exporter whose margins are healthy, the difference between this and the normal regime is large. It is shown by this very case.
14. The three conditions the Legislature attached to that benefit share a feature. None of them concerns the export itself, which is dealt with in sub-section (1). Each concerns the exporter’s own compliance with the documentary obligations the tax laws place on it. The return, the withholding statements and the sales tax returns are the means by which the Revenue sees the exporter’s

²Clause (b) of sub-section (2) took its present form by the Finance Act, 2022, and so governs tax year 2023; it previously read “withholding tax statements for the relevant tax year have been filed”. The proviso to clause (c) was added by the Finance Act, 2023.

³On the presumptive regime and the effect of section 169, see *Quality Textile Mills* [2013 PTD 2095] and *Monnoowal Textile Mills* [2022 PTD 305]. That final taxation does not place the taxpayer beyond audit: *Starlet Innovations* [2019 PTD 60].

affairs. Having dispensed with the computation of the exporter's income, the Legislature required, in exchange, that the exporter be a filer of the documents the law asks of it.

15. Clause (b) of section 154A(2) does not itself describe the statements. It takes them from the Ordinance: the statements "required under the Ordinance". These are the statements under section 165, the relevant parts of which read:

"165. Statements.— (1) Every person collecting tax under Division II of this Part or Chapter XII or the Tenth Schedule or deducting tax from a payment under Division III of this Part or Chapter XII or the Tenth Schedule shall, furnish to the Commissioner a quarterly statement in the prescribed form setting out—

(a) the name, Computerized National Identity Card Number, National Tax Number and address of each person from whom tax has been collected ... or to whom payments have been made from which tax has been deducted ... in each quarter;

(b) the total amount of payments made to a person from which tax has been deducted ... in each quarter;

(c) the total amount of tax collected from a person ... or deducted from payments made to a person ... in each quarter; and

(d) such other particulars as may be prescribed:

Provided that every person as provided in sub-section (1) shall be required to file withholding statement even where no withholding tax is collected or deducted during the period: ...

...

(2A) Any person who, having furnished statement under sub-section (1) or sub-section (2), discovers any omission or wrong statement therein, may file a revised statement within sixty days of filing of statement under sub-section (1) or sub-section (2), as the case may be.

...

(6) Every person deducting tax from payment under section 149 shall furnish to the Commissioner an annual statement in the prescribed form and manner.

(7) Every prescribed person ... deducting tax from a payment under Division III of this Part, Chapter XII or the Tenth Schedule shall, e-file to the Commissioner an annual statement for the relevant tax year within thirty days of the end of tax year in addition to statement to be filed under sub-section (6) of this section."⁴

16. Three features of section 165 bear on the question. First, the quarterly statement is not a bare intimation that something has been filed. The

⁴Section 165(2)(c) requires the statement for the quarter ending on 30th September to be furnished on or before 20th October. Sub-sections (7) and (8) were added by the Finance Act, 2021, and sub-section (2A) by the Finance Act, 2017.

Legislature has said what it must set out: for each quarter, the persons to whom payments were made, the amounts paid and the tax deducted. Secondly, the proviso to sub-section (1) requires a statement even where no tax is deducted during the period. That is the nil statement, and it is tied to a period in which nothing was deducted. Thirdly, sub-section (2A) allows a person who discovers an omission or wrong statement to file a revised statement within sixty days. The annual statements under sub-sections (6) and (7) are required in addition to the quarterly statements, not in place of them.

17. The purpose of the quarterly statement is plain. A payment challan tells the Revenue that a sum has been deposited under a given head. It does not tell the Revenue whose salary or whose rent the deduction relates to, or how much was paid. That information comes from the statement. The statement links the tax deposited to the persons from whose payments it was deducted, gives them credit for it, and allows payments, deductions and returns to be cross-checked.

V. WHETHER THE CONDITION IN SECTION 154A(2)(b) WAS FULFILLED

18. The applicant's case rests on the word "filed". The submission is that clause (b) asks only that statements be filed, that a statement for the first quarter was filed, and that what it contained is beside the point. We are unable to read the clause in that way.
19. The clause does not speak of filing a document. It speaks of filing "withholding tax statements ... if required under the Ordinance". Those words send us to section 165 for the statement that is required. Section 165 does not require a form to be uploaded. It requires a statement of the payments made and the tax deducted in the quarter. The condition is therefore fulfilled by filing that statement, a statement which answers the description the Ordinance gives it, and not by filing whatever document bears its title. Where a statute makes the filing of a prescribed statement a condition of a benefit, it is implicit that what is filed must be the statement prescribed. Where the law requires a thing to be done in a particular manner, it must be done in that manner.⁵ Any other reading would turn the condition into a formality that could be satisfied by an empty form. A condition of that kind serves no purpose, and a statutory provision is to be construed so as to make it effectual, not to empty it of content.⁶
20. Nor was the statement for the first quarter a nil statement in the sense the Ordinance uses. The proviso to section 165(1) requires a nil statement where no tax has been deducted in the period. It does not allow a nil statement where

⁵*Muhammad Asghar* [PLD 2020 Lah. 87], where it was said that where a mode of performing a duty is laid down by law, it must be performed in that manner or not at all; *Sajida Zaheer* [2022 PLC 206].

⁶*Seven Star Sugar Mills* [2026 SCMR 69]; *F.M. Textile Mills* [2017 PTD 1875], where it was said that the Legislature does not waste its words.

tax has been deducted. The officer found eight deductions in the quarter, and the learned Tribunal recorded that this finding remained unrebutted. That is a finding of fact, and in this jurisdiction we take the facts as found. The first question itself proceeds on the footing that the tax was “duly ... deducted and deposited”. So the statement did not record an absence of deductions. It left out the deductions that were made. For the purpose of clause (b), that is not the statement the Ordinance required for the quarter.

21. The annual statement does not alter the position. Section 165 requires the quarterly statements and the annual statement as separate obligations, and clause (b) speaks of the “statements” for the tax year, which means all of them. In any event, the annual statement on the record speaks only of deductions under section 155. Nothing before the authorities below, or before us, shows that the salary deductions of the first quarter were disclosed anywhere.
22. We were also asked to consider whether there was valid compliance. In our view there was compliance in form only. The Ordinance gave the applicant a means of putting the matter right: a revised statement under section 165(2A). The applicant was evidently aware of it, since it used it for the second quarter. It did not use it for the first. The omission stood when the applicant claimed the final tax regime in its return of 15.11.2023, and it stood when the officer examined the claim.
23. Counsel’s argument also raises the wider question whether, when a fiscal statute makes the doing of a thing a condition of a benefit, the thing must be done completely and accurately, and whether any defect will deprive the taxpayer of the benefit. We would not put the proposition so broadly. Courts have been slow to treat a partial or technical lapse as fatal where the requirement, read as a whole, has in substance been met.⁷ A statement that is true in substance but contains a clerical or arithmetical slip, or one that has been corrected through the revision the Ordinance allows, stands on a different footing. The Legislature has itself provided for errors to be cured, and a statement revised in time is the statement for the period. What clause (b) will not accept is a statement that, as filed and left uncorrected, fails to disclose the very deductions it exists to disclose. That is not imperfect compliance. It is the absence of the compliance the condition requires. The line falls between a statement that is imperfect and a document that is not, in substance, the statement the law requires. The present case falls on the wrong side of that line.

⁷*Bilal Akbar Bhatti* [PLD 2015 Lah. 272] (Full Bench), where a partial failure to comply with the requirements for an election petition was held not to be fatal unless the petition as a whole failed to comply; *Soneri Bank* [2013 CLD 1756].

VI. SUBSTANCE, PURPOSE AND BENEFICIAL CONSTRUCTION

24. It was suggested in the memorandum that the learned Tribunal preferred form to substance, and that a provision meant to encourage exports of information technology should be construed liberally and with regard to its purpose. The settled approach to a fiscal statute is to read its words as they stand. Where they are clear, the Court does not read into them what is not there, nor does it imply what is not expressed.⁸ That is the reading we have given to clause (b): its own words send us to section 165, and section 165 says what the statement must contain. The applicant's argument in substance asks us to read into clause (b) a dispensation the Legislature did not enact, namely that a statement need only be filed, whatever it contains. That is not open to us. Nor may a Court, in the name of purpose or policy, rewrite a fiscal provision.⁹ The result is no different if the matter is approached purposively, as the applicant urges. A purposive approach is well recognised, and an interpretation that advances the object of a provision is preferred to one that defeats it.¹⁰ But a purposive reading begins with the purpose of the provision being construed. The applicant's argument looks to the purpose of section 154A as a whole, which is the encouragement of exports, and leaves out the purpose of the condition the Legislature attached to it. The Legislature chose to encourage exports on terms. One of those terms is that the exporter file the withholding statements the Ordinance requires. Reading "filed" to include a statement that leaves out deductions actually made would defeat the purpose of that term. Properly applied, a purposive reading leads to the same conclusion as the plain words.
25. The same is true of beneficial construction. A beneficial provision is construed liberally, so that the benefit it confers is advanced rather than frustrated.¹¹ That principle operates within the provision. It governs the extent of the benefit once the claimant has shown that it falls within the provision; it does not dispense with the conditions on which the benefit is given. Whether the claimant falls within the provision is determined by the conditions the Legislature enacted, and a concession is not enlarged by implying into it what the statute does not

⁸*Khurshid Ahmad* [2016 PTD 1393], where it was also said that there is no equitable construction of a taxing statute; *Allied Bank* [2023 SCMR 1166]; *Seven Star Sugar Mills* [2026 SCMR 69].

⁹*D.G. Khan Cement* [PLD 2026 FCC 168], where it was said that courts have neither the jurisdiction nor the authority to rewrite statutes, and that reading down cannot be used to add to or subtract from a provision something never intended by the Legislature.

¹⁰*Dilawar Hussain* [PLD 2016 SC 514], where the cardinal rule of construction was said to combine the meaning of the words with the object and purpose of the statute; *Saif-ur-Rehman* [2018 SCMR 1885]; *Kamran Iqbal* [2016 SCMR 447], where it was said that a purposive approach is to be adopted in accord with the objective of the statute and not in derogation of it. In the field of tax: *IGI Insurance* [2018 PTD 114], where the purposive reading of section 109 was held to sit alongside an orthodox reading of the specific provision with which it interacts; *UBS AG* [2016 SCMR 1098], where the UK Supreme Court construed a statutory exemption from income tax purposively and confined it to the purpose for which it was given.

¹¹*Saif-ur-Rehman* [2018 SCMR 1885]; *Tariq Iqbal* [2019 SCMR 859].

express.¹² Courts have drawn a distinction between requirements that are mandatory, which must be fulfilled, and those that are directory, in which some latitude may be allowed. Which class a requirement falls in depends on the intention of the Legislature, gathered from the object of the provision and the consequence it attaches to non-compliance. Where the Legislature has specified no consequence, the requirement has been treated as directory. Here the Legislature has specified one, in section 154A(3). The doctrine of substantial compliance belongs to the directory class. It cannot be used to dispense with a requirement that is a condition of the concession.¹³

26. This disposes of the characterisation offered in the second question, that filing withholding statements is “a procedural requirement intended to ensure reporting uniformity only”. For a person acting purely as a withholding agent, section 165 may well be a reporting obligation. But the Legislature has placed it among the conditions in the very sub-section that confers finality, and sub-section (3) states the result of not fulfilling it. Once the Legislature makes an obligation a condition of a concession, it is no longer merely procedural for the purpose of that concession. Nor is the absence of loss to the revenue the test. The Legislature did not make loss an element of clause (b). The loss with which the clause is concerned is the loss of the information on which the Revenue relies in place of the computation the concession dispenses with.
27. There is a further consideration. In its return, the applicant chose the final tax regime and so represented that it fulfilled the conditions for it. It now accepts that the statement for the first quarter did not disclose the deductions made, and argues that this does not matter. The effect of the argument is that a taxpayer may retain a concession by relying on its own default. The law does not generally allow that.¹⁴ We do not say this by way of censure. We say it because the argument, if accepted, would allow the applicant to keep the benefit of the condition while dispensing with its substance.

VII. WHETHER SECTION 182 IS THE ONLY CONSEQUENCE

28. Learned counsel’s main submission was that the Ordinance itself provides the consequence of a wrong or incorrect statement, namely a penalty under section 182, and that the denial of the final tax regime is not that consequence. The table to section 182 does provide penalties for failing to furnish a statement under section 165 and for furnishing a statement that is false or

¹²*Khurshid Ahmad* [2016 PTD 1393], where an exclusion not expressed in the statute was held not to be implied into it; *UBS AG* [2016 SCMR 1098].

¹³*Muhammad Asghar* [PLD 2020 Lah. 87]; *Sajida Zaheer* [2022 PLC 206], where the integral test was said to be the legislative intent and the purpose to be achieved, ascertained by considering the nature and object of the provision and the consequences of construing it one way or the other; *Muhammad Nawaz* [2024 CLC 375], where a requirement couched in the word “shall” was held to be directory primarily because the Legislature had specified no penal consequence for non-compliance.

¹⁴*Trio Industries* [2026 SCMR 152], where the maxim *nullus commodum capere potest de injuria sua propria* was read together with *ignorantia juris non excusat*; *Sakhi Jan* [2020 SCMR 832]; *Mian Muhammad Saeed* [PLD 1964 SC 572].

misleading, or that omits a matter without which it is misleading in a material particular.¹⁵

29. Section 182 and section 154A(2) operate in different fields. A penalty is the consequence of breaching a duty. The Ordinance attaches its own consequences to defaults in the withholding regime, and they fall on every withholding agent in default, whether or not it seeks any concession.¹⁶ Clause (b) of section 154A(2) applies only to the person who claims finality, and it imposes no penalty. It states a condition, and sub-section (3) states what follows if the condition is not fulfilled: sub-section (2) does not apply. The result is not punitive. The exporter is taxed under the normal regime like any other taxpayer, on its taxable income computed after admissible deductions, which is what the learned Tribunal has directed. The Legislature has provided the consequence of non-fulfilment within section 154A itself, and nothing in section 182 suggests that it was meant to displace it.
30. There is a further difficulty with the submission. If a penalty were the only consequence of an untrue statement, clause (b) would have no work to do. An exporter could file blank statements, bear the penalty and keep the concession, and the condition would mean nothing. The same reasoning would apply equally to the return in clause (a). A construction that drains a statutory condition of all effect is not one we can adopt.¹⁷ The two provisions stand together: the penalty answers the breach of the withholding agent's duty, and the denial of finality answers the failure of the condition.

VIII. THE ANSWERS TO THE QUESTIONS

31. For the reasons given above, we answer the questions as follows:

Question No. 1: In the negative. The learned Tribunal did not err in law in holding that the condition in section 154A(2)(b) was not fulfilled. The statement filed for the first quarter of tax year 2023 did not disclose the tax deducted and deposited in that quarter, was not revised under section 165(2A), and was not cured by the annual statement.

¹⁵Table to section 182, S. No. 1A (offence): "Where any person fails to furnish a statement as required under section 165, 165A, 165B or 165C within the due date." S. No. 10 (offence): "Any person who— (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this Ordinance; (b) furnishes or files a false or misleading information or document or statement to an Income Tax Authority either in writing or orally or electronically; (c) omits from a statement made or information furnished to an Income Tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular." The penalties are those specified in the corresponding column of the table, as amended from time to time.

¹⁶Section 161 makes a person who fails to deduct or collect tax, or to pay it after deduction, personally liable to pay the amount, and section 163 makes it recoverable as tax due under an assessment order; the table to section 182 provides the penalties. On the gravity of these consequences: *Coca Cola Pakistan* [2026 SCMR 130].

¹⁷See footnote 8 above.

Question No. 2: In the negative. The learned Tribunal did not misinterpret section 154A(2)(b). Once filing the withholding statements required by the Ordinance is made a condition of final taxation, it is a condition of eligibility and not a mere procedural requirement. Its non-fulfilment takes the applicant out of sub-section (2) by force of sub-section (3).

IX. ORDER

32. The questions are answered against the applicant and in favour of the respondent department, and the reference application is dismissed. The direction of the learned Tribunal remanding the matter for computation of the taxable income and tax liability under the normal tax regime was not questioned before us and remains undisturbed. There is no order as to costs.
33. A copy of this judgment shall be sent under the seal of this Court to the learned Appellate Tribunal Inland Revenue, Karachi, as required by section 133(8) of the Ordinance.¹⁸

J U D G E

J U D G E

Karachi,
Dated: 12th day of October 2026

Ayaz PS.

¹⁸Section 133(8): "The High Court shall send a copy of the judgment under the seal of the High Court to the Appellate Tribunal."