

IN THE HIGH COURT OF SINDH AT KARACHI

ITRAs No. 141 to 145 of 2012

Before : **Mr. Justice Irfan Saadat Khan**
Mr. Justice Fahim Ahmed Siddiqui

M/s. First Women Bank Ltd. Applicant

Versus

The Commissioner Inland Revenue,
 Zone-I, Large Taxpayer Unit, Karachi. Respondents

Date of hearing
 as well as that of order : **13.02.2020**

Applicant M/s. First Women Bank Ltd. through Mr. Arshad Siraj Memon, advocate.

Respondent the Commissioner Inland Revenue, Zone-I, Large Taxpayer Unit, Karachi through Mr. Kafeel Ahmed Abbasi, advocate.

J U D G E M E N T

IRFAN SAADAT KHAN, J:- Through the instant Income Tax

Reference Applications ('ITRAs'), following questions of law have been raised.

- (i) Whether in the facts and circumstances of the case, the learned Appellate Tribunal was justified in confirming the appellant order passed by the learned Commissioner Inland Revenue (Appeals-I), Karachi and order passed under Section 122(5A) by the learned Additional Commissioner Inland Revenue?
- (ii) Whether in the facts and circumstances of the case, the learned Appellate Tribunal has misdirected in law and confirming the addition made under Section 67 of the

Income Tax Ordinance, 2001 read with Rule 13 of Income Tax Rules, 2002?

- (iii) Whether the learned Appellate Tribunal, learned Commissioner Inland Revenue (Appeals-I), Karachi and the learned Additional Commissioner Inland Revenue have correctly worked out the apportionment of expenses and have applied and interpreted the provisions of Section 67 of the Income Tax Ordinance, 2001 read with Rule 13 of Income Tax Rules, 2002?

2. At the very outset, counsel appearing for the Applicant states that he does not press the question No.(i), raised in the instant ITRAs, hence in so far as the question No.(i) is concerned, the matter is dismissed as not pressed.

3. Mr. Arshad Siraj Memon, learned counsel for the Applicant states that the Income Tax Authority ('ITA'), while making the assessment was not justified in apportioning the expenses, which is not in accordance with law. He further states that the questions raised in the instant ITRAs may be decided in his favour. Mr. Kafeel Ahmed Abbasi, learned counsel appearing on behalf of the department has stated that the apportionment made was in accordance with the law and that the same cannot be distributed, as the same has been made as per the previous history of the case and that the apportionment of the expenses was as per the provision Section 67 of the Income Tax Ordinance, 2001. He in this regard also read out the relevant provision of the said law.

4. We have heard both the learned counsel for the parties at some length and have also perused the record.

5. From the assessment order and from perusing other orders, available on the record it is evident that the apportionment made by the ITA seems to be in accordance with law and no illegality or irregularity has

been found and the apportionment of the expenses have been made as per the relevant provision. Hence we see no reason to interfere with the findings, recorded by the ITAs below. More so, the apportionment of the expenses is a question of fact, which has to be determined keeping in view the accounts of the company and has to be allowed or apportioned to the extent of allowable expenses only, which appears to be in order and in accordance with rules and the relevant provisions of the law.

6. We, therefore, in view of the circumstances decide the question No.(ii) in NEGATIVE and question No. (iii) in AFFIRMATIVE. Hence both these questions are decided against the tax-payer and in favour of the department.

7. With these observations, the instant ITRAs stand disposed of. Office is directed to send a copy of this order under the seal of the Court to the Registrar, learned Income Tax Appellate Tribunal (Pakistan), Karachi, as required under the law.

JUDGE

JUDGE