

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application 557 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection No.26
- 2. For hearing of CMA No.4496/2024
- 3. For hearing of main case

28.10.2025

Mr. Ovais Ali Shah, advocate for the applicant
Mr. Faheem Raza, advocate for respondent

On the previous date following order was passed:-

“23.09.2025

Mr. Ovais Ali Shah, advocate and Mr. Jahanzeb Balouch, advocate for the applicant.

- 1. Urgency granted.
- 2. Learned counsel undertakes to address the office objection before the next date.
- 3. Exemption granted subject to all just exceptions.
- 4&5. Following questions of law framed for determination:

“A. Whether the Impugned Order, in so far as it remands the issues of, inter alia, net exchange loss and apportionment of expenses into NTR and FTR income back to the assessing officer, is illegal and without jurisdiction in view of the powers conferred on the Respondent No.1 under Section 129 of the ITO?

B. Whether, the additions made to the income of the Applicant by the ONO and upheld by the Impugned Order by, inter alia, rejecting the claimed deductible expenses on account of ‘unsatisfactory explanations’ and by addition of ‘Short Term Loan’ as income without issuing a separate notice under section 111 of the ITO are unlawful?

C. Whether the ONO was illegal having been passed beyond the period of 180 days and whether the Impugned Order is unlawful insofar as it upholds the same without adjudicating upon the legality of the alleged extension of 90 days vide letter No.CIR/Z-II/LTO-KHI/2022-23/261 dated 03.10.2023 which was neither produced before the Respondent No.1 nor provided to the Applicant?

D. Whether the Respondents failed to appreciate the evidence provided to them regarding ‘Short Term Loan’ including, inter alia, loan agreement, SCB account statement, letter to SBP for registration of the loan, the statement of disbursement, overseas remittance application form as well as Form M and the Impugned Order discarded the issue in a cursory manner without discussing the evidence provided by the Applicant and as such the order suffers from mis-reading and non-reading of evidence specially as the loan was remitted by a foreign company which could only be done through banking channels?

E. Whether the addition of the provision for SIDC to the income of the Applicant by rejecting the provision made therefore is contrary to section 36(3) of the ITO?

F. Whether under the facts and circumstances, disallowance of the entire finance cost as against ‘short term running finance’ on account of the same being ‘abnormal’ without any comparison with the principle loan or as ‘not relating to business’ without appreciation of audited accounts and documents provided is illegal and violates, inter alia, Section 28 of the ITO?

G. Whether under the facts and circumstances, the disallowance of Travelling / Conveyance / Vehicle Running / Maintenance Expenses, while terming the same as abnormal and comparing the same to an altogether different entity (Indus Motors) is illegal and beyond the scope of proceedings under 122(5A) as well as ultra vires the ITO?

H. Whether under the facts and circumstances, the disallowance of Travelling / Conveyance / Vehicle Running / Maintenance Expenses amounts to misreading and non-reading of material facts, documents and evidence?

I. Whether under the facts and circumstances, the disallowance of provisions for slow moving & obsolete items is contrary to law, in particular section 34 of the ITO and the Respondent No.2 has disallowed such provisions on superfluous grounds whereas the Impugned Order has upheld such treatment without assigning any reasons and without application of mind?

J. Whether under the facts and circumstances, the disallowance of 'rent on accrual basis', 'local development cost' and 'income from discounting of financial asset' is beyond the scope of the Show Cause Notice and lacks factual or legal basis and whether the Impugned Order has upheld the same without assigning any reasons and without independent application of mind by discarding the submissions of the Applicant?

K. Whether under the facts and circumstances, the disallowance of statutory required donations made by the Applicant as admissible expense is beyond the scope of the SCN and section 21(h) whereas the Impugned Order has upheld such treatment without assigning reasons or application of mind and such action suffers from misreading and non reading of evidence?

L. Whether the recharacterization of the Applicant's Business Income from Profit on Debt as Income from Other Sources is contrary to law and also violates the provisions of Section 169 ITO?"

Without prejudice to each of questions phrased supra, learned counsel submits that ONO was time barred and the issue was dealt by the learned Appellate Tribunal in perfunctory manner and prima facie inconsistent with the judgment of Supreme Court passed in the case of The Collector of Sales Tax Gujranwala & Others vs. Super Asia Mohammad Din and Sons & Others reported as 2017 SCMR 1427; especially paragraph 7 thereof.

Admit reference; Issue notice to the respondent for a date to be fixed after two weeks. In the meanwhile, operation of the impugned order dated 24.10.2024 passed by the Commissioner (Appeals-II) Inland Revenue, LTU, Karachi, is suspended."

Today, learned counsel for respondent states that in view of the foregoing it may be just and appropriate to *set aside* the impugned order and remand back the matter to the learned Commissioner (Appeals) for adjudication afresh. Order accordingly.

A copy of this decision may be sent under the seal of this Court and signature of the Registrar to the learned Appellate Tribunal, as required per section 133(8) of the Income Tax Ordinance, 2001.

Judge

Judge