

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special STRA 736 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.3465/2019.
2. For hearing of main case.
3. For orders on CMA No.3466/2019.

Mr. Abdul Manan, advocate for SRB

18.09.2025

The Appellate Tribunal Sindh Revenue Board rendered an order dated 30.07.2019 in Appeal AT-65 of 2019. The conclusion drawn was demonstrably in pursuance of the law settled vide a Division Bench judgment of this High Court, reported as 2018 PTD 1.

This reference has remained pending for six years before this Court and no notice has ever been sought / issued herein. The crux of the applicant's argument was that since the party before the tribunal was not a *petitioner* before the High Court in the aforementioned judgment, therefore, the tribunal was not justified in applying the settled law to the *lis*. It was never the applicant's case that the exposition of law did not apply and / or that the judgment was distinguishable. In order to illustrate the grievance, the questions framed for determination by the applicant are reproduced herein below:

"A. Whether the learned Tribunal, is justified in granting relief to the respondent a person on the basis of the reported judgment of the honourable High Court Sindh in the case of ABAD, 2018 PTD 1 despite the fact that the respondent was not the petitioner of that constitutional petition (hereinafter referred to as the impugned judgment)?

B. Whether the learned Tribunal was justified in holding that the show cause notice issued to the respondent is similar to the notice issued to the Petitioner in ABAD case supra and the learned Commissioner (Appeals), SRB has rightly allowed the appeal without considering the fact that in the judgment of the ABAD only the notices impugned in the subject suit was dismissed by the Honourable Judges of the High Court?"

Article 201¹ of the Constitution states that a question of law decided by a High Court shall be binding on all courts subordinate thereto. Needless to state that the constitutional command is irrespective of parties to proceedings. If the *lis* before the learned tribunal was covered by a Division Bench judgment of this Court, to which no cavil was articulated by the learned counsel, then no occasion could have arisen for the forum to disregard the binding edict.

In view of the reasoning and rationale contained herein the questions are answered in the positive, hence, in favor of the respondent and against the applicant department. This reference application stands 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, Sindh Revenue Board, Karachi, as required by section 63(5) of the Sindh Sales Tax on Services Act 2011.

¹ 201. Decision of High Court binding on subordinate Courts. Subject to Article 189, any decision of a High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it.

Prior to parting with this order, we are constrained to observe that this reference was *prima facie* frivolous, sought to agitate binding settled law; yet remained a clog in the docket for over six years. While this is a fit case for imposition of costs² upon the department / its chairman, however, we have eschewed the same by virtue of judicial restraint. A copy of this order may be conveyed by the office directly to the Chairman Sindh Revenue Board.

Judge

Judge

Khuhro/PS

² In consonance with judgment reported as 2017 PTD 1832.