

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application No.238 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on office objection No.26.
- 2. For orders on CMA No.318/2023.
- 3. For hearing of main case.

26.11.2025

Mr. Ameer Nasuherwan Adil, advocate for the applicant.
Mr. Muhammad Ramzan Awan, advocate for the respondent.

Per learned counsel, the impugned order is devoid of any reasoning and / or independent deliberation. He states that the Tribunal being the last fac-finding forum in the statutory hierarchy is not to decide the appeal in such a perfunctory manner and the impugned order under any circumstances cannot be considered as a speaking order.

Learned counsel for the respondent disputes the aforesaid. It is considered illustrative to reproduce the operative paragraphs of the impugned judgment that read as follows:

- “7. We have observed that the issue under consideration has been adequately adjudicated by the higher appellate forums. Furthermore, it is also a cardinal principle of interpretation of fiscal statues that where a thing is required by law to be done in a specific manner then it should only be done in that particular manner or not at all. Reliance is placed on PLD 1964 SC 536, 2003 SCMR 1505 and 2011 PTD 2042.
- “8. We have observed that the deletion of disallowance and charge of turnover Tax on sales proceeds was in accordance to the ratio of judgment of ATIR reported as 2017 PTD 1911. Therefore, the Department appeal is dismissed”

The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent upon the same to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed to be emphasized by the Supreme Court in judgments reported as 2019 SCMR 1626. This High Court has consistently maintained that the Appellate Tribunal is required to possess independent reasons and findings and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgment has also

maintained that if the impugned order is discrepant in the manner as aforesaid even grant to remand the matter for adjudication afresh. Reliance is placed on judgment dated 10.12.2024 in ITRA 342 of 2024.

We are of the considered view that the impugned judgment could not be treated to be a speaking order prima facie devoid of relevant discussion and deliberation. In view hereof, the impugned judgments are hereby set aside and the matter is remanded back to the Appellate Tribunal for adjudication afresh.

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, as required per section 133(8) of the Income Tax Ordinance, 2001.

Judge

Judge

M. Khan