

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application No. 360 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
	<div>1. For orders on office objection Nos. 09 & 25.</div> <div>2. For orders on CMA No. 412/22 (Exp)</div> <div>3. For hearing of main case</div>

03.12.2025

Syed Shohrat Hussain Rizvi, advocate for applicant.
Mr. Jamshed Abbasi, advocate holding brief for Mr. Kashif Khan Tanoli, advocate for respondent.

Per learned counsel for the applicant, the Commissioner Appeals had dismissed the appeal on account of non-prosecution. The Appellate Tribunal held that the said forum did not have such powers and ought to have decided on merits, however, instead of remanding the matter for such purposes the appeal was simply allowed.

On each successive date adjournment has been sought by the learned counsel for the respondent and same is the case today. There appears to be no case for indefinitely perpetuating this reference.

The issue before the Court is that for the reasons as aforesaid the respondent had been given a benefit; devoid of any adjudication. The learned Appellate Tribunal ought to have remanded the case for adjudication or done the needful itself, however, no case stood made out to deal with the *lis* in such a perfunctory manner.

The manner in which the appeals in general are to be addressed has been emphasized by the Supreme Court in the judgment reported as 2019 SCMR 1626. The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent thereupon to ensure that each relevant issue is adequately adjudicated.

It has been consistently maintained that perfunctory treatment by the appellate forum to the issue thereof ought not to be sustained. Reliance is placed on the judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgments have also maintained that if the impugned order is discrepant in the manner as aforesaid, the correct course is to remand the matter for adjudication afresh. Reliance is placed on the judgment dated 10.12.2024 in ITRA 343 of 2024.

Therefore, no case is set forth to sustain the impugned judgment and the same is hereby *set aside*; the matter is remanded back to the Appellate Tribunal for adjudication afresh per the law.

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