

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application No. 324 of 2019

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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- 1. For orders on office objection No. 25.
- 2. For orders on CMA No. 497/19 (Ex)
- 3. For hearing of main case.

11.12.2025

Mr. Muhammad Aqeel Qureshi, advocate for applicant.

This reference assails concurrent judgments rendered in a statutory hierarchy in favour of the taxpayer / respondent. The operative part of the order-in-appeal reads as follows:-

“Perusal of the impugned order shows that the Additional Commissioner has passed the amended order by estimating the income of the appellant on hypothetical basis without any evidence on the record that the appellant has launched its project for sale to general public during the year under appeal. On the other hand the AR sufficiently proved his stance through corroborative documentary evidence i.e letter No SBCA/D.D(D-1)/ 2208/ADV.589/2013 dated 4-10-2013 issued by the KBCA as well as audited accounts where from it is evident that the appellant has not earned any receipts during the year under appeal. Further, the order passed under section 122(5A) of the Income Tax Ordinance, 2001 during the Tax Year 2014 also confirms the fact that the project was launched for the first time seeking revenue from the general public by way of sale of Registration Forms. It is pertinent to note that the launching of project is also supported with print media advertisement made in the year 2014. Accordingly, I agree with the contention of the AR that in the absence of any revenue receipts computation of income on hypothetical basis and levying of tax thereon is not permissible under the law. Hence, impugned demand is deleted and Impugned order is vacated being devoid of merit and law. Appeal disposed off as indicated above.”

Learned Tribunal considered the same proposition and upheld the finding of learned Commissioner while dismissing the appeal. The operative part of learned Tribunal’s order reads as follows:-

“After perusal of above Judgement, we have noted that the facts & the legal position of the present case are totally different. In the instant case the amended Order has been passed estimating the Income of the Taxpayer on hypothetical bases without any evidence on record that the taxpayer has launched the project for the sale to general public during the year under appeal. The taxpayer has established through corroborative documentary evidence i.e the letter no. SBCA/D.D(D-1)/2208/ADV.589/2013 dated 04-10-2013 issued by the KBCA as well as through audited accounts that the taxpayer has not earned any receipt during the year under Appeal. We are of the view that the learned CIR(A) has rightly observed that the Order passed U/s 122(5A) during the tax year 2014 confirms the fact that the project was launch for the first time seeking revenue for the general public by way of sale of the registration forms. We have further noted that as per the evidence brought on record the launching of project is also supported with print media advertisement made in the year 2014. We therefore uphold the findings of the learned CIA(A) that in the absence of any revenue receipts computation of income on hypothetical bases and levying of tax thereon is not permissible under the law. The impugned order of the learned CIR(A) is therefore upheld. Consequently, Appeal filed by the department is dismissed.

The Appeal filed by the department is disposed off in the manner referred above.”

Learned counsel remains unable to demonstrate any infirmity in the impugned order and *prima facie* the same is rendered on appreciation of record / evidence, for which the learned Tribunal is the last fact-finding forum. Since no *de novo* appreciation of evidence is merited in reference jurisdiction and no question of law, arising therefrom, has been articulated before the Court, this reference is 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, as required per section 133(8) of the Income Tax Ordinance, 2001.

Judge

Judge

Ayaz P.S.