

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA Nos. 321, 322 & 323 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection.
- 2. For order on CMA No. 477/23 (Exemption)
- 3. For hearing of main case.

22.12.2025

Mr. Qaim Ali Memon, advocate for the applicant.
Mr. Ramzan Awan, advocate along with Mr. M. Nawab Awan, advocate for respondent.

Per learned counsel for the applicant department, the impugned judgment is not a speaking order, as it contains no independent deliberation and/or reasoning. Learned Counsel states that dealing with the *lis*, the tribunal has rendered the judgment in a perfunctory manner and the same is not befitting the last fact-finding forum in the statutory hierarchy. He draws attention to the operative penultimate paragraph of the impugned judgment that's reads as follows:

“19.2 The learned Commissioner (Appeals) on the other hand vide orders dated 27-03-2023 has upheld the impugned orders. We are of the view that the learned Commissioner (Appeals) has failed to apply his mind and take into account the manner in which the officer has worked out the tax in default and failed to appreciate the true spirit and intent of relevant provision of law. The findings were given in only one paragraph and the basis made for them was that the appellant did not produce the details. This is not only contrary to the principles of justice but also the law.”

Prima facie contention of the applicant department is borne from the record. The Tribunal, being the last fact-finding forum in the statutory hierarchy, is bound to identify and adjudicate each issue and such overarching presumptions cannot be substituted for findings on evidence as required by law. If the deliberation was considered inadequate then proper recourse would have been to independently adjudicate or remand for said purpose. Learned counsel for the respondent has remained unable to displace or distinguish the foregoing observations.

The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent to render independent deliberations and findings on each issue. 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 1726. This High Court has consistently maintained that the Appellate Tribunal is required to proffer independent reasons and findings, and in the absence thereof a perfunctory order could not 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.

We are of the considered view that the impugned judgment could not be considered to be a speaking order and is *prima facie* devoid of relevant discussion and deliberation. There is a myriad of reproduction, surmises; crowned with an inconsistent conclusion. Therefore, no case is set forth to sustain the impugned judgment and the same is hereby *set aside*; the matters are 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. Office is instructed to place copy of this order in the connected files.

Judge

Judge

Ayaz P.S.