

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
ITRA No.28 of 2024

Date	Order with Signature of Judge
------	-------------------------------

Hearing of Case

1. For order on office objection No.27
2. For orders on CMA No. 205/2024
3. For hearing of Main Case

20.02.2026

Barrister Ghazi Khan Khalil for the Applicant
Mr.Sundar Advocate holds brief for Mr. Zahid Jamali Advocate for the
Respondent

On 14.01.2026, following order was passed:

"14.01.2026

Mr. Ghazi Khan Khalil, advocate for the applicant.

Learned counsel has proposed following questions of law determination:

(III) 'Whether the Appellate Tribunal has not erred in law to delete amount of statutory penalty on the plea of means rea or guilty mind, by ignoring the judgment of Hon'ble High Court reported as 2002 PTD 381 wherein it is held that the penalty proceedings are more in nature of civil liability rather than criminal offence?'

(IV) Whether the Appellate Tribunal has not erred in law to ignore that when the legislature required the doing of a thing in a particular manner then it is to be done in that manner and all other manner or modes of doing or performing that things are barred if the doing of a thing is made lawful in a particular manner the doing of that thing in conflict with the manner prescribed will be unlawful as per maxim "Expression facit cessare taciturn" (2006 SCMR 12) ?"

In additional to the foregoing, he states that impugned order is not a speaking in nature and cannot be sustained as the order is of final fact finding forum in statutory hierarchy.

Admit reference application, issue notice to the respondents through first two modes as well as courier. Learned counsel to place tracking report of courier on record. To come up after four weeks.

On the subsequent date, counsel for the Respondent appeared and sought an adjournment. His request was allowed and a specific subsequent date, being today, was given. Today brief is being held on behalf of learned counsel and adjournment is being sought for no cogent reason whatsoever. Respectfully, the subsequent request cannot be entertained as no case made out to perpetuate clogging the docket.

Learned counsel for the Applicant had demonstrated from the record that the impugned order is not a speaking order and there was no discussion or deliberation on the issues before the learned Tribunal. He had also argued that the impugned judgment was perfunctory in nature and under no circumstances the impugned order be considered to be befitting the final appellate order in the statutory hierarchy.

The Appellate Tribunal is the last fact-finding forum in the statutory hierarchy; therefore, it is incumbent upon it 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 order could not be considered to be a speaking order and is prima facie devoid of any independent reasoning etc. The entire judgment comprises essentially of reproduction and is crowned with a dissonant conclusion. Hence, no case is set forth to sustain the impugned order, which is hereby set aside and the matter is remanded back to the Appellate Tribunal for adjudication afresh in accordance with law. Reference application is disposed of.

A copy of this decision may be sent under the seal of the 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

Amjad PS