

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
SSTRA No. 686 of 2022**

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

Hearing of Case

1. For orders on office objection No.26
2. For hearing of CMA No. 3868/2022
3. For hearing of Main Case

26.02.2026

Mr. Ameer Nausherwan Adil Advocate for the Applicant
Mr. Aqeel Ahmed Khan Advocate for the Respondent

On 23.01.2026, following order was passed:

“Mr. Ameer Nausherwan Adil, advocate files Vakalatnama on behalf of applicant, same is taken on record. Learned counsel proposes following questions for determination:

1. Whether under the facts and circumstances of the case, the learned ATIR was justified to annul the order of the learned Commissioner (Appeals-I) and order-in-original passed by Deputy Commissioner as the demand created on ground of suppression of sales, under section 40B of the Sales Tax Act, 1990, whereby the authorized team conducted a detailed exercise and after obtaining records from registered person relating to production, dispatch, delivery challan and stock position rather than assumption and presumption?
2. Whether under the facts and circumstances of the case, the learned ATIR was justified to annul the order of the learned Commissioner (Appeals-I) and order-in-original passed by Deputy Commissioner as the demand was created on ground of suppression, whereas each and every finding was discussed in detail in order-in-original passed by Deputy Commissioner?
3. Whether under the facts and circumstances of the case, the learned Tribunal was justified to annul the order of CIR(A) on the ground of time, limitation prescribed under section 45-B(2) of Sales Tax Act, 1990 rather than remanding back the case to CIR(A) on this issue?
4. Whether under the facts and circumstances of the case, the learned Tribunal was justified to annul the order both authorities below it when the order-in-original passed by the DCIR is within lawful jurisdiction?
5. Whether under the facts and circumstances of the case, the learned Tribunal was justified to annul the DCIR order when the impugned lapse is recorded on the part of CIR(A); which is an independent forum and state revenue cannot be jeopardized for the act of CIR(A)?

Notwithstanding the foregoing, learned counsel adverts to paragraph 6 of the impugned order and states that the issue of limitation has been wrongly decided by the learned Appellate Tribunal in view of judgment reported as 2025 SCMR 341. Learned counsel further states

that the impugned order merely considers contention of the assessing officer and has not discussed or deliberated the findings of the Commissioner Appeals. He states that under such circumstances the impugned order has been perhaps rendered in a perfunctory manner and not befitting the last fact finding forum.

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 two weeks. In the meanwhile, operation of the impugned order dated 20.07.2022 is suspended.”

It is demonstrated from the record that the Applicant department had been non suited on account of limitation under section 45B(2) of the Sales Tax Act, 1990. Learned counsel has placed reliance upon a judgment in the case of M/s. Sarwan Traders reported as 2025 SCMR 341 to demonstrate that the impugned judgment is perhaps erroneous in such regard and the timeline has been determined by the Supreme Court to not be mandatory. Under such circumstances and coupled with his assertion regarding the perfunctory nature of the impugned judgment, as recorded vide order dated 23.01.2026, he seeks that the impugned judgment be set aside and the matter be remanded back to the learned Tribunal for adjudication afresh.

Learned counsel for the Respondent contest the same however remain unable to rebut the preponderance of authority cited supra. In view hereof, the impugned judgment is set aside and matter remanded back to the learned 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 47 subsection 5 of Sales Tax Act, 1990.

Judge

Judge

Amjad PS