

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 52 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.513/2026.
2. For orders on CMA No.514/2026.
3. For hearing of main case.

25.05.2026

Mr. Abdul Qadir Anwer, advocate for the applicant.

The impugned order records as follows:

“2. Brief facts of the case are that the taxpayer is an "COY" registered with FBR (Income Tax) and Return of Income for tax year 2022 was e- filed on 26-12-2022 declaring total income at Rs.23,055,090/-. Taxpayer claimed Tax Credit for Trust/Welfare Institution/Non-Profit Organization u/s 100C at Rs.6,685,976/-. The return so filed was treated as an assessment order deemed to have been issued in terms of Section 120(1) of the Income Tax Ordinance, 2001. The said deemed order was examined and found to be erroneous in so far as prejudicial to the interests of revenue warranting amendment under sub-section (5A) of section 122 of the Income Tax Ordinance, 2001. Accordingly, a show cause notice under sub-section (9) of section 122 read with section 122(5A) of the Ordinance was issued on 14-02-2025 along with statutory notice under rule 68 of the Income Tax Rules, 2002 wherein compliance was fixed on 20-02-2025. The notice was followed by reminder. It was asked from the taxpayer that it has claimed tax credit u/s.100C but has not been granted approval of status of non-profit organization (NPO) u/s.2(36)(c) of the Ordinance by CIR hence does not meet the criteria laid down under section 100C. The taxpayer after availing adjournment, filed reply which was examined by the A/CIR. The A/CIR passed order by observing that the has not furnished the order u/s.2(36)(c) meaning thereby the taxpayer is not entitled to tax credit u/s.100C. Accordingly, the tax credit claimed Rs.6.685.976/- was disallowed and assessment was amended.

3. Being aggrieved with order of A/CIR, the taxpayer preferred appeal before this Tribunal.

4. On the date of hearing, Mr. Shah Raza, Advocate, attended on behalf of the appellant/taxpayer and contended as per grounds of appeal whereas Mr. Shahzad Ali, D.R., represented the respondent/department and supported the order passed by A/CIR.

5. We have heard both sides and gone through the record carefully. The dispute in this appeal is about the tax credit under section 100C of the Income Tax Ordinance, 2001, claimed by the appellant, for the tax year 2022. The A/CIR disallowed the tax credit on the ground that the appellant did not have valid approval as a Non-Profit Organization (NPO) under section 2(36)(c) for that year. Before us, the learned AR of the taxpayer without contesting the main issue, submitted that the impugned order has been passed exparte without in violation of Article 10A read with Article 24 of the General Clauses Act, 1898. Even, the learned AR has failed to furnish any approval as Non-Profit Organization (NPO)

5.1. It is an admitted position that the appellant claimed tax credit under section 100C amounting to Rs.6,685,976. It is also not disputed that for availing tax credit under section 100C, a taxpayer must hold valid approval as a Non-Profit Organization under section 2(36)(c) of the Ordinance for the relevant tax year. The appellant has failed to produce any approval or order issued by the Commissioner granting NPO status under section 2(36)(c) for tax year 2022 before A/CIR. Even before this Tribunal, no such approval has been placed on record. In absence of the mandatory approval, the appellant does not fulfill the basic requirement of section 100C. Therefore, the action of the A/CIR in disallowing the tax credit cannot be termed as lawful or without jurisdiction.

5.2. As regards the objection that the order was passed under section 122(5A) without fulfillment of the conditions of being erroneous and prejudicial to the interest of revenue, we find that allowing tax credit without fulfillment of statutory Social Policy & Development Cemre v/s. CTIL conditions clearly makes the deemed assessment erroneous and prejudicial to the interest of revenue. Hence, invocation of section 122(5A) was justified.

5.3. The contention of the appellant that the order is time barred has also been examined. The show cause notice was issued within the prescribed time and the amended order was passed in continuation thereof. No material has been produced to establish that the order is barred by limitation. This ground therefore fails.

5.4. With regard to the plea of violation of Article 10A of the Constitution and the principle of audi alteram partem, the record shows that show cause notice was issued, compliance dates were fixed, and the taxpayer submitted reply after TE Availing adjournment. Mere dissatisfaction with the outcome does not establish the denial of, right of hearing. The allegation of ex parte proceedings is, therefore, without force.

5.5. The remaining grounds relating to fishing inquiry, incorrect assumption of jurisdiction, and non-consideration of case law are general in nature. In view of the clear failure of the appellant to meet the statutory requirement of section 1000, these grounds do not advance the case of the appellant.

5.6 In view of the above discussion, we find no illegality or infirmity in the impugned order passed by the A/CIR. The disallowance of tax credit under section 100C is upheld. Consequently, the appeal filed by the appellant is dismissed.”

On 20.05.2026, following order was passed:

“20.05.2026

Mr. Abdul Qadir Anwer, advocate for the applicant.

Learned counsel seeks time to reformulate the questions of law. At his request adjourned to 25.05.2026.”

Even today learned counsel remains unable to distinguish or displace the findings of the Appellate Tribunal. It is also not his case the conclusion could not be rested thereon. Yet again no question of law has been articulated meriting interference in reference the jurisdiction, therefore, reference application is dismissed.

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

Khuhro/PS