IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application No.227 of 2024

Before:
Mr. Justice Shamsuddin Abbasi
Mr. Justice Khalid Hussain Shahani

Applicant	:	Engro Corporation Limited, *Through* Mr. Khalid Jawed Khan Advocate
Respondents	:	The Commissioner Zone III & another *Through* Mr. Faheem Raza, Advocate
Date of hearing	:	29.10.2026
Date of Order	:	29.10.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. – Through the instant reference application, instituted under section 133 of the Income Tax Ordinance, 2001 ("Ordinance"), the applicant has called in question the legality of the order dated 15.04.2024 passed by the Appellate Tribunal Inland Revenue, arising out of proceedings concerning the levy and computation of super tax under section 4C of the Ordinance for Tax Year 2022. The controversy essentially pertains to the determination of income chargeable to super tax, the treatment of losses and other relevant adjustments, and the consequential liability fastened upon the applicant.

2. Learned counsel representing the respective parties, at the very outset, have jointly submitted that, in view of the authoritative pronouncement of the Federal Constitutional Court in M/s. D.G. Khan Cement Company Limited and others v. Federation of Pakistan and others (PLD 2026 Federal Constitutional Court 168), read with the judgment of the Lahore High Court in Khairullah Khan v. Appellate Tribunal Inland Revenue and others (2026 PTD 1005), the controversy requires reconsideration by the concerned Deputy Commissioner Inland Revenue in accordance with the principles enunciated therein. Both learned counsel have, therefore, expressly consented to remand of the matter to the original adjudicating authority for fresh determination, without inviting any adjudication upon the merits of the disputed assessment at this stage.

3. We have considered the submissions advanced at the Bar and examined the legal position emerging from the aforementioned pronouncements. The Federal Constitutional Court, while upholding the constitutional validity of section 4C of the Ordinance and its applicability from Tax Year 2022,

has authoritatively expounded the statutory framework governing the levy of super tax, including the computation of income for that purpose.

4. In this backdrop, and particularly when learned counsel for both sides are ad idem regarding the proposed course, we are persuaded that the ends of justice would be better served by permitting the competent assessing authority to undertake a fresh examination of the controversy. The consensus of the parties, though not a substitute for statutory jurisdiction, furnishes an additional consideration in favour of remand where a lawful reassessment is warranted. It would be neither appropriate nor expedient for this Court, while exercising its reference jurisdiction, to undertake the primary exercise of factual verification and computation, particularly when the governing legal position has since been authoritatively elucidated.

5. Consequently, with the consent of learned counsel for the respective parties, the impugned order dated 15.04.2024 passed by the Appellate Tribunal Inland Revenue, together with the underlying orders to the extent they determine the disputed super tax liability, are set aside, and the matter is remanded to the concerned Deputy Commissioner Inland Revenue for its fresh determination strictly in accordance with law. The said authority shall afford adequate opportunity of hearing to the applicant, examine the material already available on record as well as such further relevant material as may lawfully be produced, and determine the liability, if any, through a fresh, reasoned and speaking order, keeping in view the principles laid down by the Federal Constitutional Court in PLD 2026 Federal Constitutional Court 168.

6. It is clarified that this Court has expressed no opinion on the merits of the competing claims, the admissibility of any adjustment or exclusion, or the quantum of tax ultimately payable. All such questions shall remain open for independent determination by the competent authority, uninfluenced by the conclusions recorded in the orders hereby set aside. Any amount already recovered or secured against the disputed demand shall be dealt with in accordance with law and the outcome of the fresh proceedings.

7. The reference application stands disposed of in the foregoing terms, by consent, without any order as to costs. Office shall transmit a copy of this order to the Appellate Tribunal Inland Revenue in accordance with section 133(8) of the Ordinance for consequential action.

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