ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 417 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For hearing of CMA No.3337/2024
3. For hearing of main case

07.09.2026

Messrs. Muhammad Hasham Khan and Akhtar Ali Memon, advocates for the applicant

Barrister S. Ahsan Ali Shah, advocate for respondent

Issue before the court is that the Commissioner Appeals had rendered the findings of adjudication being time-barred, however, proceeded to remand the matter for *denovo* consideration to the adjudicating officer. In such regard the following questions of law are pressed for determination :

i. Whether the Commissioner appeal was justified in remanding back the case to the assessing officer despite of agreeing the fact that the order passed in terms of section 122(5A) of the Ordinance was time barred in purview of section 122(9) of the Ordinance?

ii. Whether the provision of section 129 of the Ordinance permits the commissioner appeal to remand back the case to the assessing officer?

Insofar as the issue of remand is concerned by the Commissioner Appeals, it is settled law that the same is impermissible in view of the judgment of the Supreme Court in the case of Seven Stars reported as 2026 SCMR 69. Insofar as the issue of limitation is concerned the matter has conclusively been settled by the Supreme Court in the case of *Wak Limited Multan Road Lahore vs. Collector Central Excise and Sales Tax Lahore (now CIR, LTU Lahore)* reported as 2025 SCMR 1280. Learned counsel for the applicant states that in *mutatis mutandis* application of the binding authority cited, the questions be answered in favour of the applicant, against the respondent and consequently the impugned order may be set aside. Learned counsel for respondent articulates no cavil to the record. Order accordingly. Reference application is allowed in the said terms.

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

Amjad