ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Spl. STRA 296 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on office objection
2. For hearing of CMA No.1714/2022
3. For hearing of main case

05.11.2026

Mr. Ameer Nausherwan Adil, advocate for the applicant

Following question of law had been proposed for determination.

i. Whether on the facts and circumstances of the case, the learned ATIR was justified in holding that the impugned order was passed after the statutory period of 120 days when the show cause notice was issued on 08.06.2013 and the order was finalized on 26.09.2013 which is well within the time limit prescribed by the law?

ii. Whether on the facts and circumstances of the case, the learned ATIR was justified in assuming that the order was passed after lapse of time whereas no material evidence was brought on record which could establish that the date of judgment mentioned on the Order-in-Original was incorrect?

iii. Whether the Appeal filed by the Respondent taxpayer before the learned Commissioner Inland Revenue (Appeals) under Section 45-B of the Sales Tax Act, 1990 was time barred?" (reliance may be placed on order dated 14.05.2024 in ITRA Nos. 82 and 83 of 2024)?

Learned counsel states that the adjudication was found to be time-barred and the narrative for the same is contained in paragraph 5 of the impugned order which reads as follows:

> 5. The learned D.R. explained that the Order-in-Original was passed on 08-06-2013 which was well within 120 days of issuance of show-cause notice but it was received by the taxpayer on 27-12-2013 due to lapse on the part of dispatch clerk of the office. Hence, the learned CIR (Appeals) has wrongly held that the Order-in-Original was passed by the office after lapse of statutory period of 120 days and was barred by time”

Learned counsel states that the limitation for adjudication has to be computed from the date of issuance of show cause notice till the date of rendering of order-in-original. In the present circumstances, admittedly the order-in-original was rendered on 26.09.2013 within the limitation. Learned counsel states that the learned Tribunal has taken the date of 27.12.013 as the date of issuance of order-in-original as that is the date upon which

allegedly the same was received by the assesse. He states that notwithstanding the department's reservation with regard to the said observation, under no circumstances does it render the adjudication time-barred as there is no provision for limitation to be construed in respect of the date of order-in-original from any other date except that on which date it was delivered. Under such circumstances, he states that the impugned order is contrary to the law.

Perusal of the record corroborates the contention of the learned counsel and we are not assisted with any law which would require us to read the date of order-in-original as anything other than the date upon which it was rendered. In view hereof, the questions proposed for determination are answered in favour of the applicant department and against the respondent, the impugned order is set-aside and the matter is remanded back to the learned Tribunal for adjudication on merits in accordance with law. The reference application stands disposed of.

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