

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. No.D-3280 of 2015**

DATE	ORDER WITH SIGNATURE OF JUDGE
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**PRIORITY**

1. For orders on Misc.No.950/2017
2. For hearing of main case.
3. For hearing of Misc. No.14634/2015

**26.04.2017**

Mr. Hyder Ali Khan, Advocate for the Petitioner.  
Mr. Sarfaraz Ali Maitlo, Advocate for Respondent No.3.  
Mr., Ghulam Shabir Baloch, Assistant Attorney General.

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Learned counsel for the Petitioner submits that during pendency of the instant petition, the orders which were sought to be rectified by the Respondents through impugned Notices issued under Section 221 of the Income Tax Ordinance, 2001, which were assailed by the Petitioner by filing an appeal before the Commissioner Inland Revenue (Appeals-I), Karachi, have been annulled by the Commissioner (Appeals) vide order dated 25.06.2015, whereas, the Respondents have not filed any appeal against such order. It has been contended by learned counsel for the Petitioner that inspite of such fact, the Respondents have not withdrawn the impugned Show Cause Notices issued under section 221 of the Income Tax Ordinance, 2001 for the aforesaid tax years. In support of his contentions, learned counsel for the Petitioner has placed on record a copy of Order dated 25.06.2015, passed by the Commissioner Inland Revenue (Appeals-I), Karachi, vide order No.310-314/A-1 dated 25.06.2015.

From perusal of the order passed by the Commissioner (Appeals) for the aforesaid tax years, it appears that the orders passed under Section

161/205 of the Income Tax Ordinance, 2001, for the tax years 2009 to 2013 in the case of petitioner, have been annulled in the following terms:

“4. In view of the foregoing reasons the impugned orders are annulled. However, the annulment of the ONO would not debar the revenue, subject to limitation, to do the needful denovo after meeting the requirement, strictly in accordance with law, reliance in this regard is placed on case law reported as 108 Tax 67 (Trib.)”

Since the Respondents while passing the order under section 161/205 of the Income Tax Ordinance, 2001, intended to rectify the aforesaid orders, which pursuant to the order passed by the Commissioner (Appeals-) have already been annulled, therefore, there remains no justification with the Respondent-department to rectify the order(s), which is no more in field. While confronted with such position, learned counsel for the Respondents could not controvert the factual and legal position which has emerged in the instant case, as referred to hereinabove.

Accordingly, we would dispose of instant petition with the directions to the Respondents to withdraw the impugned Notice(s), issued under Section 221 of the Income Tax Ordinance, 2001, for the above tax years and drop proceedings in this regard. However, the Respondents shall be at liberty to initiate any other proceedings, if permissible under the law, to retrieve loss of revenue, however, in accordance with law and after providing opportunity of being heard to the petitioner.

Petition stands disposed of in the above terms along with listed applications.

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