

IN THE HIGH COURT OF SINDH AT KARACHI

(Extraordinary Reference Jurisdiction)

I.T.R.A. No. 22 of 2017

Date	Order with signature of Judge
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Present:

**Mr. Justice Aqeel Ahmed Abbasi
Justice Mrs. Rashida Asad**

Fresh Case

1. For orders on Misc. No.35/2018.
2. For hearing of Main Case.

03.11.2020:

Mr. Iqbal Salman Pasha, advocate for the applicant.

ORDER

1. Through instant Income Tax Reference Application, the applicant has formulated seven (07) questions, arising from the impugned order dated 21.08.2016 passed by the Appellate Tribunal Inland Revenue (Pakistan) Karachi in ITA No.738/KB-2019 [Tax Year 2007]. However, after having read out the proposed questions and the impugned order passed by the Appellate Tribunal in the instant case, learned counsel for the applicant submits that the applicant will press the question relating to addition under Section 111(1)(c) of the Income Tax Ordinance, 2001 as according to learned counsel, the Appellate Tribunal was not justified to delete the addition and to remand the matter back to the ACIR for examination and scrutiny of the subject credit entries after hearing the applicant.

2. We have heard the learned counsel for the applicant, perused the record and gone through the impugned order passed by the Appellate Tribunal with his assistance. Record shows that on 27.01.2020, when the matter was fixed in Court, learned counsel for the applicant was directed to assist this Court as to whether

after remand of the matter by the Appellate Tribunal in the instant case, any order has been passed by the Assessing Officer in respect of the addition made under Section 111(1)(c) of the Income Tax Ordinance, 2001 or not, however, learned counsel for the applicant requested for time to seek instructions in this regard. Today, when the same query was made from learned counsel, he has pleaded no instructions. It is a settled legal position that in case, the Appellate Tribunal does not decide any legal issue, while deciding an appeal, and remands the matter back to the Assessing Officer for reassessment, and to pass appropriate order after providing opportunity of being heard to an aggrieved party, a Reference would not lie against such order of remand, for the reason that the scope of Reference and jurisdiction of this Court under Section 133(1) of the Income Tax Ordinance, 2001 is limited to the extent of examining the legal issues decided by the Tribunal, and to give decision in respect of question of law, if any, arising from the order passed by the Appellate Tribunal. Since no question of law has been decided by the Appellate Tribunal in the instant case and the matter has been remanded back to the ACIR for reassessment, therefore, no question of law arises, hence instant Reference Application is misconceived and not maintainable. Reliance in this regard can be made in the case of *the Commissioner on Income Tax Central Zone 'B', Karachi v. Messrs Electronic Industries Ltd, Karachi* [1988 PTD 111] and *CIT v. Ateed Riaz* [2002 PTD 570].

3. Accordingly, instant Reference Application is hereby dismissed in limine alongwith listed application.

JUDGE

JUDGE

A.S.