

**IN THE HIGH COURT OF SINDH AT KARACHI**  
(Extraordinary Reference Jurisdiction)

**I.T.R.A. No. 177 of 2018**  
**to**  
**I.T.R.A. No. 181 of 2018**

Date	Order with signature of Judge
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**Present:**

**Mr. Justice Aqeel Ahmed Abbasi**  
**Mr. Justice Zulfiqar Ahmed Khan**

**Fresh Case**

**29.09.2020:**

Dr. Shahnawaz Memon, advocate for applicant(s).

**ORDER**

1. The above five Income Tax Reference Applications have been filed against a combined impugned order dated 10.01.2017 passed by the Appellate Tribunal Inland Revenue (Pakistan) Karachi Bench in ITAs No. 763/KB/2014 to 767/KB/2017 [Tax Years 2009 to 2013], whereby, following common question has been proposed by the applicant(s) said to have arisen from the order passed by the Appellate Tribunal in the instant case. The question reads as follows:-

*“Whether under the facts and circumstances of the case, the learned Tribunal was justified to direct the Assessing Officer to work out the liability of taxpayer afresh in the light of Hon’ble Supreme Court’s judgment dated 10.11.2016 despite the fact that Review Petition has already filed by the (department) against that judgment?”*

2. Learned counsel for the applicant(s) after having read out the proposed question and the impugned order passed by the

Appellate Tribunal in the instant case, has submitted that the learned Appellate Tribunal has erred, while directing the assessing officer to work out the liability of taxpayer in the light of recent judgment of the Hon'ble Supreme Court in Civil Appeals No.1049 to 1055 of 2011 (and several other connected Civil Appeals) in the case of *Workers Welfare Fund (WWF), Ministry of Human Resources Development, Islamabad through Secretary Employees Old Age Benefits Institution through its Chairman and another v. East Pakistan Chrome Tannery (Pvt.) Ltd. through its G.M. Finance, Lahore and others* [**PLD 2017 SC 28**], as according to learned counsel, the applicants have filed a Review before the Hon'ble Supreme Court, which is pending decision.

3. Learned counsel for the applicant(s) was confronted to point out any error or illegality in the impugned order passed by the Appellate Tribunal in the instant cases, wherein, the legal issue relating to charging WWF has been decided by Tribunal, while placing reliance on the judgment of the Hon'ble Supreme Court, in response to such query of the Court, learned counsel for the applicant could not submit any response, nor could assist as to how the proposed question requires any response by this Court under Section 133 of the Income Tax Ordinance, 2001. Learned counsel for applicant(s) was also confronted to assist this Court as to whether, on mere filing a review application, the judgment passed by the Hon'ble Supreme Court on a legal issue would cease to have binding effect on the High Court, or subordinate Courts and Tribunals, in response to such query of the Court, learned counsel for the applicant has candidly stated that unless an order passed by the Hon'ble Supreme Court is reversed or suspended, it shall have binding effect upon all the High Court, subordinate Courts and Tribunals.

4. In view of hereinabove legal position, we do not find any substance in the instant Income Tax Reference Applications, which are hereby dismissed in limine alongwith listed applications. Consequently, the common question proposed in the instant References is answered in "**AFFIRMATIVE**" against the applicant and in favour of respondent.

***JUDGE***

***JUDGE***

**A.S.**