

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Spl. STRA No.45 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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For Regular hearing

19.05.2022

Ms. Fahmida Khanam, Advocate for the Applicant.
Mr. Kafeel Ahmed Abbasi, Advocate for the Respondent.

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This matter was heard at some length on 14.4.2022 with the assistance of the parties and thereafter with their consent following question of law was framed.

“Whether in the facts and circumstances of the case the learned Sales Tax Appellate Tribunal was justified in not considering the issue of the limitation involved in the Sale Tax Appeal No.216/KB of 2013 by passing the order dated 16.01.2016 irrespective of the fact that this question of law has not been raised by the applicant?”

It has been explained by the counsel appearing for the Applicant that the Tribunal while deciding the matter has not dilated upon the issue with regard to the fact that the appeal filed by the department/Respondent was patently time barred. Hence, according to the learned counsel, this primary issue, which was going to the roots of the case, was left undecided. Counsel for the Department has endorsed the situation and stated that the Tribunal was under the obligation to have decided the issue of limitation first, which was going to the roots of the matter.

We have heard both the learned counsel at some length and have perused the record.

We agree with the contention raised by both the learned counsel that the Tribunal while deciding the appeal, vide order dated 16.01.2016, has not dilated upon the issue of limitation, which was very much part and parcel of the grounds of appeal taken by the

appellant in the appeal and in our view, to this extent, order of the Tribunal was not correct.

We therefore, with the consent of both the learned counsel appearing before us remand this case to the Tribunal with directions to decide the issue of limitation in accordance with law. It is however, clarified that as far as the merits of the case are concerned since the same have already been decided hence no interference is warranted irrespective to the fate of the appeal.

With these directions instant STRA stands disposed of. It is expected from the Tribunal that they would decide the matter of the limitation preferably within a period of two months' time from the date of receipt of this order after providing opportunity of hearing to the appellant as well as to the Respondent/Department.

JUDGE

JUDGE

SM