

# HIGH COURT OF SINDH AT KARACHI

ITR No.14 of 1996

Present:

Mr. Justice Irfan Saadat Khan  
Mr. Justice Mahmood A. Khan.

Dates of hearing : 26.04.2017.  
Applicant : Mr. Muhammad Aqeel Qurshi, advocate.  
Respondent : Mr. Aslam Pervaiz, advocate.

## J U D G M E N T

IRFAN SAADAT KHAN, J.: This Income Tax Reference has been filed under Section 136(1) of the Income Tax Ordinance, 1979 (now repealed) by raising the following question of law:-

*“Whether in the facts and circumstances of the case the Income Tax Appellate Tribunal was justified in directing to set off amount of interest earned against interest payable on the loan borrowed, by way of business expediency?”*

The record reveals that the instant question has already been answered in ITR No.90/1991 by a Division Bench of this Court by answering the proposed question in affirmative i.e. in favour of the taxpayer and against the department. When the said position was apprised to Mr. Muhammad Aqeel Qureshi, advocate for the applicant that the question proposed has already been answered by the Division Bench of this Court in above referred ITR, he could not controvert the same. Mr. Aslam Pervez, advocate is in attendance on behalf of Mr. Raja Qasit Nawaz, advocate for the respondent.

We have heard the learned counsel and have perused the record. Since it is an uncontroverted and undeniable position that the question proposed in the instant Income Tax Reference has already been decided in

ITR No.90 of 1991, we, therefore, keeping in view the above facts and circumstances of the matter, decide the question proposed in the instant Income Tax Reference in affirmative i.e. in favour of the respondent-taxpayer and against the Income Tax Department.

Above are the reasons of our short order of even date.

JUDGE

JUDGE