

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

Income Tax Reference Application No.148 of 2023

Date

Order with signature of Judge(s)

1. For orders on CMA No.242/2023.
2. For orders on office objections No.8 & 25.
3. For orders on CMA No.184/2023.
4. For hearing of main case.

**01.06.2023**

Mr. Waseem Shaikh, advocate for the applicant.

1. Granted. 2, 3 & 4. This reference assails the order of the learned Appellate Tribunal Inland Revenue Karachi dated 03.01.2023 in ITA 478/KB/2022 (“Impugned Order”). The entire crux of the applicant’s case is that the facts and record were not appreciated by the Tribunal in their proper perspective, hence, *de novo* appreciation of the evidence be undertaken by this Court, in its reference jurisdiction.

In so far as the *de novo* appreciation of evidence is concerned, it would suffice to reiterate settled law that the learned Tribunal is the last forum of fact in the pertinent statutory hierarchy. The appreciation of evidence was only material before the subordinate adjudication fora and no appreciation of evidence is merited before this Court in the exercise of its reference jurisdiction<sup>1</sup>. Even otherwise, the learned counsel remained unable to dispel the preponderance of reasoning / record relied upon in the Impugned Order and could not demonstrate that the conclusion reached could not have been rested thereupon.

While several questions of law are listed in the memorandum of application and two new questions were proposed vide a statement dated 18.05.2023<sup>2</sup>, it is observed that the same *prima facie* seek *de novo* appreciation of evidence, are argumentative and raise factual controversies<sup>3</sup>, therefore, we respectfully observe that the same are extraneous, dissonant and do not qualify as questions of law to be answered by this Court in exercise of its reference jurisdiction in the present facts and circumstances. Since no question of law, arising from the Impugned Judgment, could be demonstrated before this Court, therefore, this reference and pending application are dismissed in *limine*.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal Inland Revenue, as required per section 133(5) of the Income Tax Ordinance 2001.

JUDGE  
JUDGE

<sup>1</sup> Per Qazi Faez Isa J in *Middle East Construction vs. Collector Customs*; judgment dated 16.02.2023 in *Civil Appeals 2016 & 2017 of 2022*.

<sup>2</sup> In furtherance of the order dated 10.04.2023, wherein the applicant was provided an opportunity to reformulate the questions of law.

<sup>3</sup> Per Munib Akhtar J in *Collector of Customs vs. Mazhar ul Islam* reported as 2011 PTD 2577 – Findings of fact cannot be challenged in reference jurisdiction.