

THE HIGH COURT OF SINDH, KARACHI

Special Criminal Appeal No. 10 of 2022

[Directorate Intelligence & Investigation Inland Revenue v. The State & others]

For Appellant : Directorate Intelligence & Investigation Inland Revenue through its Director through Mr. Ghulam Asghar Pathan, Advocate.

For Respondent No.1 : The State through Mr. Nisar Ali Naushad, Assistant Attorney General for Pakistan.

For Respondents 2&3 : Nemo.

Dates of hearing : 07-05-2024

Date of decision : 07-05-2024

ORDER

Adnan Iqbal Chaudhry J. - This appeal under Section 23 of the Anti-Money Laundering Act, 2010 ["**AMLA**"] by the Directorate Intelligence & Investigation-IR to challenge the order dated 02.04.2022 passed by the Special Judge (Customs & Taxation).

2. The Appellant had filed a complaint under Section 21(2) of the AMLA as the investigating agency, which came up before the Special Judge (Customs & Taxation) as the Court having jurisdiction to try the predicate offence under the Income Tax Ordinance, 2001. Upon that complaint, learned Special Judge proceeded to direct the Commissioner Income Tax to conduct an audit of the accounts of the accused under Section 177 of the Income Tax Ordinance, 2001.

3. Per learned counsel for the Appellant, the said order was after taking cognizance on the complaint. Suffice to state that the decision to call for an audit under Section 177 of the Income Tax Ordinance 2001, vests in the Commissioner Income Tax and not the Special Judge (Customs & Taxation). For the purposes of exercising

jurisdiction for offences under the AMLA, the Special Judge has no jurisdiction to order an audit of the accounts of the accused. Therefore, the impugned order being without jurisdiction, is hereby set-aside. The appeal is allowed.

JUDGE

Karachi
Dated: 07-05-2024