

IN THE HIGH COURT OF SINDH, KARACHI

Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Adnan-ul-Karim Memon

1.	Spl:Sales Tax Ref: A. 324/2011	Commissioner of Inland Revenue Zone-III LTU VS Digri Sugar Mills Ltd
2.	Spl:Sales Tax Ref: A. 325/2011	Commissioner of Inland Revenue Zone-III LTU VS Digri Sugar Mills Ltd
3.	Spl:Sales Tax Ref: A. 326/2011	Commissioner of Inland Revenue Zone-III LTU VS Digri Sugar Mills Ltd
4.	Spl:Sales Tax Ref: A. 401/2011	Commissioner Inland Revenue VS Appellate Tribunal & another
5.	Spl:Sales Tax Ref: A. 402/2011	Commissioner of Industries Revenue VS Appellate Tribunal & another
6.	Spl:Sales Tax Ref: A. 403/2011	Commissioner of Inland Revenue VS Appellate Tribunal & another

For the Applicants:

M/s. Munawar Ali Memon & Asad Aftab,
Advocate.

For the Respondents:

Mr. Nadeem Ahmed holding brief for
Mr. Iqbal Salman Pasha & Mr. Sadakat
Ali Lakho, Advocates for Respondents.

Mr. Kashif Nazeer, Assistant Attorney
General.

Date of hearing:

27.02.2024

Date of Order:

27.02.2024

ORDER

Muhammad Junaid Ghaffar, J: In all these Reference Applications, the Applicant (department) has impugned two different sets of orders passed by the Appellate Tribunal Inland Revenue dated 02.10.2010 and 22.01.2011 in various Appeals filed by the Respondent M/s. Digri Sugar Mills Limited. These orders have been passed by the Tribunal on the basis of a Judgment dated 08.05.2008 passed by this Court in STRA No. 59 of 2007 (Digri Sugar Mills Limited v The Additional Collector of Sales Tax), whereby, the matter was decided in favor of the taxpayer / Respondent. However, the said Judgment of this Court has been subsequently, set aside by the Hon'ble

Supreme Court vide order dated 06.02.2012 passed in Civil Appeal No. 2165 of 2008 and other connected matters, was remanded to this Court. Subsequently, this Court vide its Judgment dated 22.04.2022 in the Special STRA No. 59 of 2007 also reported as **Digri Sugar Mills Limited V. The Additional Collector of Customs, Sales Tax and Central Excise and another (2023 P T D 825)** has been pleased to decide the following questions of law in favor of the Applicant department and against the Respondent. The questions of law reads as under:-

“Whether, in the present facts and circumstances, further tax under subsection (1A) of Section 3 of the Sales Tax Act, 1990, was payable by the supplier on taxable supplies made to undersigned persons?”

Since the identical question is under consideration in these Reference Applications, whereas, the impugned order of the Tribunal is based on an earlier order of this Court which is no more in field and stands set aside, the above question is answered in the affirmative in favor of the Applicant department and against the Respondents for the reasons so assigned in the above Judgment of **Digri Sugar Mills** (supra). All these Reference Applications are allowed and the impugned orders of the Tribunal are hereby set aside.

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 47(5) of the Sales Tax Act, 1990.

J U D G E

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