ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI

Income Tax Reference Application No. 14 of 2012

Date	Order with signature of Judge

For hearing of main case.

22.05.2025.

M/s. Ameer Bakhsh Metlo & Zakia Jatoi, Advocates for Applicant.

Through this Reference Application, the Applicant has impugned Order dated 30.04.2012 passed in ITA No. 902/KB/2011 (Tax Year 2009) by the Appellate Tribunal, Inland Revenue at Karachi proposing the following Questions of law:-

- "(a) Whether on the facts and the circumstances of the case the learned tribunal was justified in holding that non-payment and non-inclusion of WWF along-with statement/ Return of income filed under Income Tax Ordinance, 2001 does not constitute mistake apparent from record subject to rectification in terms of Section 221 of the Income Tax Ordinance, 2001?
- (b) Whether on the facts and the circumstances of the case learned Tribunal was justified to hold that non-charging/payment of WWF through filing of statement / return of Income, which is deemed as an assessment order u/s. 120 of the Income Tax Ordinance, 2001, does not constitute mistake apparent from record for rectification u/s. 221 of the Income Tax Ordinance, 2001?
- (c) Whether under section 221 mistake of law and of facts both can be rectified?
- (d) Whether, WWF Ordinance, 1971 and Income Tax Ordinance, 2001 complement with each other or against each other or over ride each other?"

However, the controversy as raised to the authority and jurisdiction to levy Workers Welfare Fund by the Income Tax Department and the amendment so made in the law has finally been decided against the department in the Judgment reported as Workers' Welfare Funds, M/O Human Resources Development, Islamabad through Secretary and others Vs.

East Pakistan Chrome Tannery (Pvt) Ltd. through G. M. (Finance), Lahore and others (P L D 2017 Supreme Court 28); therefore, no case for indulgence is made out. Hence, this Reference Application is dismissed *in limine* with pending application(s). Let copy of this order be sent to Appellate Tribunal Inland Revenue (Pakistan) at Karachi, in terms of subsection (5) of Section 133 of Income Tax Ordinance, 2001.

ACTING CHIEF JUSTICE

JUDGE

Arshad/