

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

ITRA No.63 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGES
<u>Hearing of case [Priority]</u>	

- 1. For hearing of CMA No.645 of 2024 [Stay Application]
- 2. For hearing of main case

22.01.2025

Mr. Shamas Mohiuddin Ansari, Advocate for the Applicant
Mr. Faheem Raza, Advocate for the Respondent

Through this Reference Application, the Applicant has impugned order dated 12.02.2024 passed in ITA No.3174/KB/2023 (Tax Year 2022) by the Appellate Tribunal Inland Revenue, Karachi, proposing following two Questions of law:-

- (i) Whether the Appellate Tribunal Inland Revenue was justified to uphold the penalty under Section 182 (1) of the Income Tax Ordinance, 2001, despite the fact that the application filed by the applicant under section 119(3) of the Income Tax ordinance, 2001, was not rejected by the Commissioner Inland Revenue?
- (ii) Whether in the facts and circumstances of the case the Appellate Tribunal Inland Revenue was justified to confirm the penalty under section 182 of the Income Tax Ordinance, 2001 without establishing willful default and mens rea?

At the very outset, learned Counsel for the Applicant submits that proposed Questions have already been answered in favour of the Taxpayer by the learned Divisional Bench of this Court in a case reported as ***Commissioner Inland Revenue Zone-II, L.T.U., Karachi versus Messrs Independent Newspaper Corp. (Pvt.) Ltd, Karachi (2019 PTD 447)***. When confronted, Respondent’s Counsel is not in a position to controvert, had accepted that the request for extension was not placed before the Department. Be that as it may, since the Questions have already been answered in favour of the Taxpayer; therefore, for the reasons so assigned in the above case, the proposed Questions are answered in favour of the Applicant and against the Respondent; and as a consequence thereof, the impugned Judgment stands set-aside. This Reference Application is **allowed**. Let a copy of this order be sent to Appellate Tribunal Inland Revenue, Karachi-Bench in terms of sub-section (8) of Section 133 of the Income Tax Ordinance, 2001.

JUDGE
JUDGE