

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 334 of 2010

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on CMA No.276/2020.
- 2. For hearing of main case.

24.10.2025

Mr. Asad Aftab Solangi, advocate for the applicant.
Mr. Anwar Kashif Mumtaz, advocate for the respondent.

Per learned counsel for the applicant, the entire impugned order rests on reproduction etc and the deliberation conclusion is confined to the following paragraph:

“20. We have considered the arguments of both the parties and also perused the relevant findings of the learned CIT (A). We are of the view that the learned CIT(A) has rightly held that section 88A refers to share derived by a company from the AOP shall be added to the taxable income of the company, which in the instant case is loss i.e. below zero. Further the learned CIT (A) has also rightly held that entire share of Income from AOP being covered under FTR is not available to be added back to the income of respective recipient members of AOP for the purpose of allowing tax credits in terms of section 88-A of the Income Tax Ordinance, by virtue of the provision of section 169(3) ff the Ordinance. Accordingly on this issue too we uphold the treatment accorded by the learned CIT (A).”

Learned counsel for the applicant states that the impugned order is devoid of any independent discussion or deliberation and under such circumstances ought not to be sustained.

Learned counsel for the respondent supports the impugned order and states that even if the reasoning has not been given by the learned Appellate Tribunal itself, it is the reasoning in Order-in-Appeal that be looked at and be determined whether it was adequate or otherwise. Learned counsel states that in present circumstances, reasoning in the Order-in-Appeal prevail, therefore, there was no reason for the learned Appellate Tribunal to enter into this exercise again.

The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed has been emphasized by the Supreme Court in the judgment reported as 2019 SCMR 1626. This High Court has consistently

maintained that the Appellate Tribunal is required to proffer independent reasons and findings, and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on the judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgments have also maintained that if the impugned order is discrepant in the manner as aforesaid, the correct course is to remand the matter for adjudication afresh. Reliance is placed on the judgment dated 10.12.2024 in ITRA 343 of 2024.

We are of the considered view that the impugned order could not be considered to be a speaking order and is *prima facie* devoid of relevant discussion and deliberation. The entire order is comprised of reproduction and crowned with a dissonant conclusion. Therefore, no case is set forth to sustain the impugned order and the same is hereby *set aside*; the matter is remanded back to the Appellate Tribunal for adjudication afresh per the law.

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, as required per section 133(8) of the Income Tax Ordinance, 2001.

Judge

Judge