

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Income Tax Reference Application No.125 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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Hearing of case / Priority

1. For order on office objections.
2. For hearing of CMA No.169/2023.
3. For hearing of main case.

29.01.2026

Mr. Ghazi Khan Khalil, advocate for the applicant

Per learned counsel pursuant to order by substituted service, the same has been effected on the respondent through publication and the relevant extract of the newspaper is available on record. Service is held good. Following questions have been proposed for determination:

- i) Whether the Learned Appellate Tribunal Inland Revenue, Karachi was justified to annul appellate order of Commissioner-IR (Appeals) and amended assessment order on the basis of non-issuance of audit report without appreciating the legal point that amended assessment order was passed on 30.06.2017 (at that point in time, audit report was not prescribed by law), while subsequently section 177(6) of the Income Tax Ordinance, 2001 was amended through Finance Act, 2019 to prescribe issuance of audit report.
- ii) Whether the Learned Appellate Tribunal Inland Revenue, Karachi was justified to annul appellate order of Commissioner-IR (Appeals) and assessment order on the basis of non-issuance of audit report without appreciating the Literal Rule of Legal Interpretation that law has to be applied as it is, nothing can be added and nothing can be subtracted.
- iii) Whether the Learned Appellate Tribunal Inland Revenue, Karachi Bench has not erred in law to annul the order of the authorities below technical grounds bases on incorrect interpretation of law, ignoring the provision of section 126(2) of the Income Tax Ordinance, 2001, which specifically provided that any order of assessment may not be quashed or deemed to be void by reason of any mistake, defect or omission therein, if it is, in substance and effect is in conformity with the Ordinance?.

Learned counsel states that notwithstanding the foregoing, the primary error in the impugned judgment is that it has enforced the requirement of an audit report in respect of a tax year prior to when the requirement was added in the Statute. He states that the said issue has not been discussed and or deliberated by the learned Tribunal and it may be in the interest of justice and revenue if the impugned order is set aside and the matter is remanded back to the learned Tribunal for adjudication afresh. He also relies upon judgment reported as 2024 PTD 1029. The plea of the learned counsel appears

reasonable and in consonance with the law. In view hereof, impugned judgment is set aside and the matter is remanded to the learned Tribunal for adjudication afresh in accordance with 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

Asif