

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 554 of 2009

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
------	----------------------------------

1. For hearing of main case.

11.05.2026

Mr. Faheem Ali Memon, advocate for the applicant.

Matter is pending since 2009 and the respondent has remained absent ever since. Learned counsel demonstrates from the record that pursuant to order of substituted service the service has been effected and the relevant newspaper cutting excerpts are on record.

Be that as it may, following question had been proposed for determination:

1. Whether on the facts and in the circumstances of the case, the learned ITAT was justified in holding that section 122(5A) of the Income Tax Ordinance, 2001 brought into statute through Finance Act 2003 is not applicable to the assessments completed before the promulgation of Income Tax Ordinance, 2001, where as the amendment brought in through Finance Ordinance, 2002 in subsection (1) of section 122 extended the applicability of section 122 of the assessment completed under the provision of Income Tax Ordinance, 1979?
2. Whether on the facts and in the circumstances of the case, the learned ITAT was justified in holding that it is the settled position of law up to the honourable Supreme Court of Pakistan that the provision of section 122 are not applicable to cases finalized under Repealed Ordinance, 1979?

Learned counsel states that the said questions were pivotal for the determination before the Appellate Tribunal, however, the same had been not addressed. Learned counsel demonstrates from the record that the impugned order spans eight pages and seven out of eight pages are merely reproduction and at paragraph concluding on the final page merely frames the contention. He states that the same is not befitting the last fact finding forum in the statutory hierarchy.

The Appellate Tribunal is the last fact finding forum in the statutory hierarchy, therefore, it is incumbent upon the same to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed to be emphasized by the Supreme Court in judgments reported as 2019 SCMR 1726. This High Court has consistently maintained that the Appellate Tribunal is required to possess independent reasons and findings and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgment has also maintained that if the impugned order is discrepant in the manner as

aforesaid even grant to remand the matter for adjudication afresh. Reliance is placed on judgment dated 10.12.2024 in ITRA 342 of 2024.

We are of the considered view that the impugned order could not be treated to be a speaking order *prima facie* devoid of relevant discussion and deliberation. In view hereof, the impugned order is hereby set aside and the matter is remanded back to the Appellate Tribunal for adjudication afresh.

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

Khuhro/PS