

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 56 to 61 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of main case

12.05.2026

Mr. Faheem Ali Memon, advocate for the applicant

Following questions of law had been proposed for determination:

"Whether under the facts and circumstances of the case the learned Tribunal was justified to uphold the order of learned Commissioner (Appeals) annulling the order passed under section 161 on account of non-deduction of tax on giveaways, in deviation from the ratio of the judgment of the honourable High Court of Sindh in the case of Wazir Ali Industries Ltd. V. ATIR, Karachi, reported as 2012 PTD 405?"

The relevant part of the impugned order reads as follows:

6. I have examined the case in the light of the available records inasmuch of its merits and find that the appellants officer has not given anything on records which could be termed as "Prize for Promotion" of Sales by way of achieving the Sales targets by the dealers. The appellants failed to understand the philosophy of law enshrined in the Section 156 of the Income Tax Ordinance, 2001 whereof the defendant company incurred expenses for print out of literature a giveaways, wall calendars, paper weights, writing pads, table calendars table organizer, ball pens etc. are not products of the defendant company. Actually their products are medicines. Hence, the etymology of the law insomuch relates to the product sale of their own which is not the case here and the defendant company's vendors already deducted the Tax under section 153 of the Income Tax Ordinance, 2001. In juxtaposition, the appellants officer has failed to understand Stoichiometry of the law in its true sense and imposed an irrational liability on the defendant company which was ultimately annulled by the Commissioner (A). As a matter of fact, these are expenses for the promotion of sales and not prize for the promotion of sale. Since the prizes may be in the shape of cash or the products scheme of their own produced (i.e. medicines) but the giveaways are not produced by the defendant company.

The show cause notice and order-in-original bears no mass and rightly annulled by the Commissioner (A) its merits.

Learned counsel states that the findings and conclusion are prima facie inconsistent with the judgment of this Court reported as 2012 PTD 405, as cited supra. Learned counsel states that the said judgment is squarely binding upon this court, therefore, in *mutatis mutandis* application thereof the aforementioned question be answered in favour of the applicant department. Order accordingly. These reference applications stand disposed of.

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. Office to place copy of this order in connected matters.

Judge

Judge