

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 188 of 2016

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

For hearing of main case

05.10.2026

Mr. Muhammad Aqeel Qureshi, advocate for the applicant
Mr. S. Riazuddin, advocate for respondent

Following question of law had been proposed :

- a. Whether on the facts and circumstances of the case the learned Appellate Tribunal, Inland Revenue, was justified in holding that capital gain of Rs.59,00,000 is not a speculation gain assessable under section 19 of the Income Tax Ordinance, 2001f also when the taxpayer has admitted that the shares were not held in his name?
- b. Whether on the facts and circumstances of the case the learned Appellate Tribunal, Inland Revenue, has rightly held that no tax was payable by the taxpayer on the profit of debt of Rs.58,845,788/- and same was not recoverable under section 162 of the Income Tax Ordinance, 2001 as the loan was obtained by the Director and not the Company which cannot be passed thus is not a single transaction?
- c. Whether the learned Appellate Tribunal, Inland Revenue did not appreciate the evidence and finding recorded by the assessing officer in the order under section 122(1)(5A) of the Income Tax Ordinance, 2001 dated 22.6.2012?

Learned counsel for the applicant submits that adjudication of those issues was essential for the determination of the controversy, however, that have not been done properly by the learned Tribunal. He states that the primary question was with respect to demonstrating ownership of the relevant shares through title etc. however, no such exercise was conducted by the respondent either before the adjudicating authority or before the learned Tribunal. He refers to page 19 of the court file to demonstrate that the learned Tribunal has dealt with the issue in a perfunctory manner and completely sidesteps the same issue, hence, overruling the adjudication without any manifest rationale. He states that prima facie perusal of the judgment would demonstrate that it is entirely premised on reproduction leading to conjectures and surmises and the same is not befitting the last fact-finding forum in the statutory hierarchy.

Learned counsel states that the impugned judgment is not sustainable and re-adjudication is merited.

Learned counsel for respondent disputes the aforementioned, however, remains unable to rebut the record or observations made thereupon.

The Appellate Tribunal is the last fact-finding forum in the statutory hierarchy; therefore, it is incumbent upon it 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 1726. 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 any independent reasoning etc. The entire order comprises essentially of reproduction and is crowned with a dissonant conclusion. Hence, no case is set forth to sustain the impugned order, which is hereby *set aside* and the matters are remanded back to the Appellate 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