ORDER SHEET

# IN THE HIGH COURT OF SINDH AT KARACHI

**ITRA 173 of 2023**

| DATE | ORDER WITH SIGNATURE OF JUDGE |
|---|---|

1. For orders on office objection Nos. 25 & 26
2. For orders on CMA No.225/2023
3. For hearing of main case

**16.11.2026**

Messrs. Rana Sakhawat Ali and Muhammad Fareed, advocates for the applicant

Learned counsel states that the impugned order has been rested in primary on the premise that the proper opportunity of hearing was not given to the respondent. Learned counsel states that notwithstanding the department's denial of the same, even if the same was construed to be correct then the proper course of action ought to have been to remand the matter for adjudication or evaluation of the evidence itself. In the present case no such course was adopted. Learned counsel states that while the learned Tribunal raises the issue of Section 111 of the Income Tax Ordinance, 2001 it fails to appreciate the legal provision and / or whether it was in adjudication or otherwise. Learned counsel states that the impugned judgment is primarily perfunctory in nature and is prima facie failed to address any of the issues and / or legal question that arises in the present facts and circumstances and has contrarily rested its conclusion on apparent conjectures and surmises inconsistent with the law.

Learned counsel places on record courier report on record to demonstrate that notice was re-issued and stands duly served.

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

Amjad