

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Applications 250 & 251 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on office objection No.22
- 2. For order on CMA No.390/2019
- 3. For hearing of main case

**23.10.2025**

Mr. Faheem Ali Memon, advocate for applicant in ITRA 250 of 2019  
Mr. Irfan Mir Holepota, advocate for applicant in ITRA No. 251 of 2019.

Courier tracking report placed on record demonstrates that service has been effected. Learned counsel refers to paragraphs 8, 9 & 10 of the impugned order, reproduced herein below :

- 8. As regards disallowance of claim of bad debt learned counsel for the appellant submitted that the appellant has fulfilled all requirements laid down under Section 29 of the Income Tax Ordinance, 2001, therefore, there is no reason for disallowance of such claim. As regards Provision of Sales return it was submitted that it is not a merely provision this is the actual sales return and since the appellant being company is following mercantile accounting method as prescribed under Section 32 (2) of the Income Tax Ordinance, 2001, the Officer Inland Revenue just see the word "Provision" disallowed the claim it is settled law that substance is to be considered and not only the form.*
- 9. On the other hand, the learned Departmental Representative supported impugned orders passed by the authorities below.*
- 10. We have heard both the parties and record perused, it has been observed from contents of amended order passed by the Officer Inland Revenue under Section 122 (5A) of the Income Tax Ordinance, 2001 which clearly indicates the issues involved are required to detailed inquiry and investigation to adjudicate which is out of purview of the Section 122 (5A) of the Income Tax Ordinance, 2001, therefore, the amended order passed by Officer Inland Revenue based on notice under Section 122 (9) of the Income Tax Ordinance, 2001 to proceed under Section 122 (5A) of the Income Tax Ordinance, 2001 is ab-initio unlawful and without jurisdiction, the case is duly covered by the Full Bench of this forum in the case law reported as 2017 PTD 1911.*

He states that the issue pertaining to claim of bad debt has been dealt with in a perfunctory manner and no independent deliberation in such regard is apparent. He states that in a manner the issue has been addressed 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 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 1626. 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 relevant discussion and deliberation. The entire order is crowned with a dissonant conclusion. Therefore, no case is set forth to sustain the impugned order and the same is hereby *set aside*; the matters are remanded back to the Appellate Tribunal for adjudication afresh per the 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. Office is instructed to place copy of this order in the connected file.

Judge

Judge

Amjad