

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**

ITRA 696, 697, 698 & 699 of 2010

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of CMA No.665/2010
2. For hearing of main case

**06.04.2026**

Mr. Muhammad Makhdoom Ali Khan, advocate for the applicant

These references are pending since 2010. Per learned counsel the entire controversy can be illustrated from three paragraphs of the impugned judgment upon which the conclusion is rested. These paragraphs reads as follows:

13. In this regard, it will be pertinent to peruse the order in the case of M/s Coca Cola Beverages Pakistan Limited for Tax Year 2008 in ITA no.866/KB/2009 which was heavily relied upon by the learned AR to support his arguments. As per the CIR, the facts of the said case however were distinguishable.

14. Be that as it may, we are now aware of certain subsequent decisions of the Hon ble Tribunal where different benches have held that the term prize was of wide importance and also covered incentives and discounts within its fold and, therefore, held that these payments were liable to WHT under section 156.

- a) ITA no.273/KB of 2010
- b) ITA no.73/KB/2010
- c) ITA no.180-184/KB/2010

15. Now keeping in view the above and in deference to the above decisions, we have to follow these and accordingly the action of the DCIR Is being upheld on this account”

Learned counsel states that it is prima facie apparent that there is inconsistency which ought not to be sustained in reference jurisdiction. He states that conflicting judgments of the Tribunal cannot be sustained and precedence has to be given in accordance with settled law. Learned counsel places reliance on judgment reported as 2007 PTD 1533 and states that it is settled law that under such circumstances correct course of action is to remand the matter and direct the Chairman to constitute a larger bench.

Despite the matter pending for 16 years the department remains unrepresented, however, there appears to be no reason to perpetuate these references any further.

It is apparent that there is demonstrated case of inconsistent judgments of the Tribunal, therefore, in *mutatis mutandis* application of the binding precedent cited, the impugned judgment is set aside and the matters are remanded back to the learned Tribunal for constitution of larger bench and adjudication of the matter afresh in accordance with law by a larger bench.

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 connected matters.

Judge

Judge

Amjad