

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

Special Sales Tax Reference Application No.190 of 2025

DATE

ORDER WITH SIGNATURE OF JUDGE

Hearing of case

1. For order on office objection
2. For hearing of CMA No.2121/2025
3. For hearing of main case

06.04.2026

Mr. Mukesh Kumar Khatri, Advocate for the applicant

The following questions had been proposed for determination:

- “(i) Whether the learned Tribunal has erred in law by failing to adjudicate upon the crucial jurisdictional question of whether an order of "annulment" passed by the Commissioner (Appeals) coupled with express directions for re-adjudication constitutes a valid legal foundation for initiating fresh assessment proceedings?
- (ii) Whether a non-statutory, ex-post-facto "undertaking" from a supplier can legally supersede the information declared in a statutory sales tax return, and whether the learned Tribunal erred in law by accepting such a document as conclusive proof without insisting on the mandatory statutory procedure for revision of returns under Section 26 of the Sales Tax Act, 1990?
- (iii) Whether the learned Tribunal erred in law by absolving the Respondent taxpayer of all responsibility for due diligence, particularly when the discrepancy between the supplier's return (declaring "tea") and the Respondent's claim (on "detergents") was so fundamental as to cast serious doubt on the bona fides of the transaction?
- (iv) Whether the principles laid down by the superior courts protecting bona fide purchasers are applicable to a case where the taxpayer itself has failed to reconcile manifest contradictions in its supply chain, thereby placing the entire burden of verification for a supplier's alleged clerical error on the department?”

Be that as it may, learned counsel states that the impugned judgment is devoid of any reasoning and or rationale on the respective issues and has been rendered in a perfunctory manner. Learned counsel states that the same is not befitting the last fact-finding forum in the statutory hierarchy.

Pursuant to last order for substituted service, service appears to have been effected through publication and the relevant newspaper excerpt is hereby placed on record.

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 matter is 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 47 subsection 5 of Sales Tax Act, 1990.

Judge

Judge

Asif