ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 22 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

1. For hearing of main case.

11.08.2026

Mr. Ghazi Khan Khalil, advocate for the applicant.

Following questions had been proposed for determination:

1. Whether under the facts and circumstances of the case, the learned Appellate Tribunal was justified to delete the addition made under section 21(k) on account of difference of markup on loan?

2. Whether under the facts and circumstances of the case, the learned Tribunal was justified to delete the addition made under section 21(k) due to the reason that the taxpayer had not claimed ay deduction on account of advancing loan to its employees, when the taxpayer was a banking company whose nature of business was that of borrowing and further lending money, and hence it was inconceivable that it had not incurred and claimed any expenditure on advancing loans?

3. Whether on the facts and in the circumstances of the case, the learned ITAT was justified to hold the order of Commissioner (Appeals) deleting addition made under section 21(k) which was based upon the mistaken notion that addition in respect of the loan on which either no profit had been charged or the profit charged thereon was less than benchmark rate could be made in the income of employee only, whereas section 21(k) dealt with the allow ability of the expenditure to the employer, and reference to section 13(7) was made in the clause for the purpose of quantification of the value of perquisite only?

Learned counsel states that the said questions were pivotal for the determination before the Appellate Tribunal, however, the same had been not addressed. Learned counsel demonstrates from the record that the impugned order spans one page and states that the same is not a speaking order and 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 upon the same to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed to be emphasized by the Supreme Court in judgments reported as 2019 SCMR 1726. This High Court has consistently maintained that the Appellate Tribunal is required to possess independent reasons and findings and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgment has also maintained that if the impugned order is discrepant in the manner as aforesaid even grant to remand the matter for adjudication afresh. Reliance is placed on judgment dated 10.12.2024 in ITRA 342 of 2024.

We are of the considered view that the impugned order could not be treated to be a speaking order *prima facie* devoid of relevant discussion and deliberation. In view hereof, the impugned order is hereby set aside and the matter is remanded back to the Appellate Tribunal for adjudication afresh.

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

Khuhro/PS