ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Income Tax Reference Application Nos. 184 & 185 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE

Hearing of Case. (priority)

1. For hearing of CMA No.1618/2026 (stay)
2. For hearing of Main Case.

11.08.2026.

Mr. Muhammad Aleem, advocate and Mr. Naseer Ahmed Abbasi, advocate for the applicant.

The impugned judgment observes as follows:-

"9. We have heard the learned representatives of both the sides, perused the available record and examined the relevant provisions of the Income Tax Ordinance, 2001 as well as the Income Tax Rules, 2002 applicable to the controversy relating to Tax Year 2020.

10. The controversy involved in the instant appeal pertains to denial of tax credit claimed by the appellant under section 100C of the Income Tax Ordinance, 2001. The departmental authorities have disallowed the said claim primarily on the ground that the appellant did not fulfill the statutory conditions prescribed for entitlement of tax credit under section 100C of the Ordinance during the relevant tax year.

11. For proper appreciation of the controversy, the provisions of section 100C, as applicable to Tax Year 2020 after amendments introduced through the Finance Act, 2019, have been carefully examined. A plain reading thereof reflects that sub-section (1) grants tax credit equal to one hundred percent of the tax payable by non-profit organizations, trusts and welfare institutions subject to fulfillment of the conditions prescribed therein, including filing of return, compliance of withholding obligations and fulfillment of administrative expenditure requirements.

12. Further examination of sub-section (1A) and sub-section (1B) of section 100C reveals that the legislature has separately dealt with the concept of "surplus funds" and has specifically excluded "restricted funds" from the ambit of taxable surplus. The explanation appended thereto defines restricted funds as amounts received by an organization which could not be spent and treated as revenue during the year due to obligations imposed by the donor.

13. Likewise, sub-section (2) of section 100C enumerates different classes of persons and categories of income eligible for tax credit. Clause (a) thereof pertains to income of a trust, welfare institution or non-profit organization derived from donations, voluntary contributions, subscriptions, grants, investments and allied receipts utilized for welfare purposes. However, it is significant to note that clause (c) of sub-section (2) of section 100C, which previously contemplated approval by the Chief Commissioner for purposes of eligibility under the said section, stood omitted through the Finance Act, 2019 and therefore ceased to have applicability for Tax Year 2020. Consequently, the issue of obtaining approval from the Chief Commissioner under the omitted clause (c) read with Rule 220A of the Income Tax Rules, 2002 is no longer relevant for the tax year under consideration.

14. Before adverting to the rival contentions, it would also be advantageous to briefly examine the statutory framework governing nonprofit organizations under the Ordinance and the Rules framed thereunder. A conjoint reading of section 2(36), section 80 and section 100C of the Income Tax Ordinance, 2001 along with Rules 211 and 212 of the Income Tax Rules, 2002 demonstrates that a person (other than an individual) seeking recognition as a "non-profit organization" for purposes of the Ordinance is required to obtain approval from

the competent Commissioner Inland Revenue in terms of section 2(36) read with the aforesaid Rules.

15. Further, Rule 211 prescribes the eligibility criteria and conditions for grant of approval as a non-profit organization, whereas Rule 212 provides the procedural mechanism through which such approval is to be granted by the Commissioner Inland Revenue. Furthermore, section 80 of the Ordinance recognizes trusts, welfare institutions and non-profit organizations as separate taxable persons under the statutory scheme. Therefore, approval under section 2(36) read with Rules 211 and 212 constitutes the foundational statutory requirement for recognition of an entity as a non-profit organization entitled to seek the fiscal concessions contemplated under section 100C of the Ordinance.

16. The benefit contemplated under section 100C forms part of a statutory concessionary regime available to recognized non-profit organizations, trusts and welfare institutions subject to fulfillment of the prescribed legal conditions. However, in instant case it is an admitted position emerging from the record that the appellant, namely Association of Builders & Developers did not possess approval under section 2(36) of the Ordinance for the relevant Tax Year 2020. The appellant was specifically confronted during proceedings under section 122(5) of the Ordinance to furnish the requisite approval/exemption certificate issued by the competent Commissioner Inland Revenue; however, the same admittedly could not be produced either before the assessing officer or before the learned CIR(A). Similar remained the position before this forum.

17. We are conscious of the fact that the appellant though may be engaged in welfare-oriented and charitable activities, however, it is a settled principle of interpretation that exemption provisions, tax credits and fiscal concessions are to be construed strictly and the burden squarely lies upon the taxpayer to establish clear fulfillment of the statutory conditions entitling it to claim such benefit.

18. In our considered view, the expression "non-profit organization" impleaded in 100C necessarily derives its statutory meaning from section 2(36) of the Ordinance read with Rules 211 and 212 of the Income Tax Rules, 2002. Consequently, fulfillment of the approval requirement contemplated under the said provisions constitutes a condition precedent for availing the concessionary regime provided under section 100C.

19. Therefore, irrespective of the welfare nature of the activities claimed to be undertaken by the appellant, the admitted position on record remains that the appellant did not possess approval as a "non-profit organization" under section 2(36) of the Ordinance read with Rules 211 and 212 of the Income Tax Rules, 2002 from the competent Commissioner Inland Revenue during the relevant Taz Year 2020.

20. We are therefore of the considered view that, in absence of the statutory approval contemplated under section 2(36) of the Ordinance read with Rules 211 and 212 of the Income Tax Rules, 2002, the departmental authorities were justified in holding that the appellant did not qualify for entitlement of tax credit under section 100C of the Income Tax Ordinance, 2001 for the subject tax year.

21. Consequently, finding no legal infirmity in the impugned orders passed by the authorities below on this aspect of the matter, the disallowance of tax credit under section 100C is hereby maintained.

22. Before parting with the matter, it is observed that the appellant admittedly did not possess approval under section 2(36) of the Income Tax Ordinance, 2001 during the relevant Tax Year 2020. However, it is equally important to note that the present is not a case either, where the appellant had previously been granted approval under section 2(36) in any preceding tax year which subject to the statutory framework and the interpretation placed by the Honourable Supreme Court upon the relevant Rules, could arguably have continuing relevance or applicability for the subject tax year. Rather, the record reflects that no such approval under section 2(36) was ever obtained by the appellant at any stage. Consequently, the appellant cannot derive any benefit on the basis of continuity, extension or carry-forward effect of an earlier approval under the governing provisions of the Ordinance and the Income Tax Rules, 2002.

23. The appeal stands dismissed in term above.”

The impugned judgment clearly states that this an admitted position on record that the appellant did not possess approval as a non-profit organization from the competent Commissioner Inland Revenue during the relevant tax year 2020. This issue has even not been controverted before us.

Three questions of law have been proposed and we have found the same to be argumentative and / or seeking *de novo* agitation of evidence. It may be pertinent to observe that no infirmity could be demonstrated in the reasoning employed by the tribunal and/or the conclusion rested thereupon.

Learned counsel was asked to assist on the last date, however, he remained unable to assist and same is the position today. Since no question has been articulated before us arising out of the present facts and circumstances to be adjudicated in reference jurisdiction, therefore these references are dismissed in *limine.*

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

Ayaz P.S.