

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Spl. STRA 207 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on office objection
- 2. For hearing of main case

30.09.2026

Mr. Mukesh Kumar Khatri, advocate for the applicant

Following questions of law had been proposed for determination :

- a. Whether under the facts and circumstances of the case, the learned Commissioner-IR(Appeals-I), Karachi was justified to annul the default surcharge when late filing of return and late deposit of sales tax liability after the due time is established?
- b. Whether under the facts and circumstances of the case, the learned Commissioner-IR(Appeals-I), Karachi was justified to ignore the express the provision of law i.e "whether willfully or otherwise" as contained in section 34 of the Sales Tax Act, 1990, which leaves no room for establishment of mens-rea? (Reliance is placed on PLD 1984 SC 369, PLDC 1980 Lahore 49, and PLD 1960, Karachi 15)
- c. Whether deletion of default surcharge by learned Commissioner-IR (Appeals-I), Karachi would not make the expressions "whether willfully or otherwise" and "shall,..... pay" used in section 34 of the Sales Tax Act, 1990 as redundant and meaningless, whereas no redundancy can be attributed with the legislation?"
- d. Whether under the facts and circumstances of the case, the learned Commissioner-IR(Appeals-I), Karachi was justified to ignore that default surcharge u/s 34 of the Sales Tax Act, 1990 is a strict liability as categorically held by Supreme Court in its judgement in Civil Petitions No.1221-K to 1257-K and 1290-K to 1299-K of 2022 dated 05.07.2024"?

Learned counsel places statement on record along with annexures demonstrating service has in fact been effected.

Learned counsel states that the said questions have already been decided in favour of the applicant by virtue of order dated 05.07.2024, passed by the honourable Supreme Court in Civil Petitions No.1221-K to 1257-K and 1290-K to 1299-K of 2022 (Commissioner Inland Revenue vs. Byco Petroleum Pakistan Ltd.). Learned counsel states that the said order is squarely binding upon this bench, therefore, in *mutatis mutandis* application thereof, the questions be answered in favour of the applicant department and against the respondent. Order accordingly.

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