

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-4234 of 2017

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

M/s. I.S. Packages.....Petitioner

Versus

The Commissioner Inland Revenue & others.....Respondents

Date of hearing 13.02.2019

Mr. Muhammad Arif advocate for the petitioner.

Mr. Kafeel Ahmed Abbasi advocate for the Tax Department.

Mr. Ishrat Alvi, Assistant Attorney General.

Muhammad Ali Mazhar, J: Learned counsel for the respondent No. 1 & 2 has filed parawise comments. In fact the petitioner has challenged the show cause notice issued on 31.05.2017 under Section 129 (9) of Income Tax Ordinance, 2001.

2. Learned counsel argued that the petitioner approached respondent No.1 to decide his application for review of tax returns as admittedly the petitioner has filed tax returns of 2015 but due to some clerical mistake could not mention the proper statement of accounts/expenses but no such order was passed on this application. At this juncture, learned counsel for the Tax Department pointed out sub-section (6A) of Section 114 of the Income Tax Ordinance, 2001 in which it is clearly provided that if a taxpayer files a revised return voluntarily along with deposit of the amount of tax short paid

before receipt of notice under Section 177 or sub-section (9) of Section 22, no penalty shall be recovered from him. The purpose of highlighting this provision is to demonstrate that the application for revised return was filed after issuance of show cause notice, therefore, under the law it was not liable to be considered. However, in para-4 of the comments filed by the learned counsel, it shows that due process of audit has been concluded under Section 122(1) of the Ordinance, 2001 on 30.06.2017 and the petitioner has also filed appeal which is pending before the Commissioner IR (Appeals-IV) with Appeal No. 155. It appears that during pendency of this petition the audit proceedings have been concluded and the appeal is already pending before the right forum, therefore, learned counsel for the petitioner agrees to pursue the appeal. The Commissioner IR (Appeals-IV) may decide the pending appeal of the petitioner preferably within forty five (45) days after providing ample opportunity of hearing to the petitioner or his representative/counsel. The petition is disposed of accordingly.

JUDGE

JUDGE