

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**C.P. No.D-2935 of 2014**

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**Order with signature of Judge**

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Before: **Mohammad Ali Mazhar and Agha Faisal, JJ.**

- 1. For hearing of CMA No.14766 of 2017*
- 2. For hearing of main case*

**21.02.2019**

**Ms/ Anwer Kashif Mumtaz, Advocate for the Petitioners.**  
**Mr. Kafeel Ahmed Abbasi, Advocate for respondent/Tax Department.**

***Mohammad Ali Mazhar J.,-*** The petitioner has approached this Court to challenge the proceedings initiated under section 122(9)/122(5A) of the Income Tax Ordinance, 2001 by respondent No.1. According to the learned counsel, the proceedings are barred by limitation as provided under section 122(2) and 122(4) of the Ordinance, 2001, hence, both the notices are liable to be quashed. They have also sought the declaration that the aforesaid notices may be declared illegal and of no consequences. The learned counsel for the petitioner referred the judgment rendered by the honourable Supreme Court in the case of Additional Commissioner Inland Revenue, Audit Range, Zone-I and others Vs. Messrs EDEN Builders Limited and others (2018 PTD 1474).

2. Learned counsel for the respondent/Tax Department is unable to controvert this legal position laid down in the judgment supra. The honourable Supreme Court in this judgment held that the law of limitation in so far as it regulated the period in which one party could avail a remedy against another was not to be lightly disturbed as the certainty created by limitation was necessary for the success of trade and business, more so when

such limitation governed tax matters. In paragraph 7 of the judgment the Apex Court held as under:-

“7. Because the terminal date of limitation is not changing through the amendment brought about through the Finance Act, 2009 and because the period of limitation is not being extended per se therefore the authorities cited by the learned counsel for the appellants are of no avail and are distinguishable. In this view of the matter, hold that the various respondents, who filed their tax returns before the section 122(2) of the I.T.O., 2001 was amended through the Finance Act, 2009 will be governed by section 122(2) *ibid* as it stood before the amendment and the amendment brought about in the said section through Finance Act, 2009 dated 30.06.2009 will not be attracted to their cases.

3. Since the controversy involved herein is already covered in the aforesaid judgment, therefore, this petition is disposed of accordingly and the impugned notices are quashed.

**J U D G E**

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