

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
I.T.R.A. No. 34 of 2015

Date _____ Order with signature of Judge _____

Present
Mr. Justice Muhammad Ali Mazhar
Mr. Justice Agha Faisal

The Commissioner Inland Revenue.....Applicant

V E R S U S

M/s. Pak Brunei Investment
Company Limited Karachi.....Respondent

06-11-2018

Mr.Kafeel Ahmed Abbasi, Advocate for the Applicant.

Mr.Hyder Ali Khan, Advocate for the Respondent

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Muhammad Ali Mazhar, J: This I.T.R.A. has been filed by the Commissioner Inland Revenue under Section 133 of the Income Tax Ordinance, 2001 with the following questions of law:-

- (1) Whether the facts and circumstances of the case, learned Appellate Tribunal I.R. is justified in annulling the order passed under Section 122(5A) of the Income Tax Ordinance, 2001?
- (2) Whether under the facts and circumstances of the case, the learned ATIR is justified in considering that the add backs/allocation/proration made or findings recorded by the ACIR are without reasonable basis and merely hypothetical based upon conjectures and presumptions?
- (3) Whether under the facts and circumstances of the case, the learned ATIR is justified in excluding the case of taxpayers from the ambit of Industrial undertaking on issue of chargeability of WWF?

2. Learned counsel for the Applicant does not want to press the question appearing at Sr.No.1. So far as the question listed at Sr.Nos.2 and 3 are concerned, the learned counsel for the respondent on the last date addressed that the question of law at Sr.No.2 has already been dealt with by this court in **I.T.R.A. No.104 of 2010** in the case of **Commissioner (Legal) Inland Revenue, Large Taxpayers Unit v/s. M/s.Habib Bank A.G. Zurich**, whereas question of law at Sr.No.3 has already been dilated upon by the hon'ble Supreme Court in the case of **Commissioner of Income Tax v/s.**

Messrs. Pakistan Petroleum Ltd. reported in **2012 SCMR 371**. The learned counsel for the applicant conceded to that the remaining questions of law (2) and (3) have already been answered in affirmative in favour of the respondent and against the applicant.

3. This is an admitted position the respondent is “M/s. Pak Brunei Investment Company, Karachi”. The Government of Pakistan has majority shareholding, which fact has not been denied by the counsel for the applicant. Under Section 2(f) of the Worker Welfare Fund Ordinance, 1971, it is clearly provided that the establishment which is owned by Government or corporation established by Government or a corporation the majority of shares of which is owned by Government does not come within the purview of industrial establishment.

4. The question of law at Sr.No.1 has not been pressed by the learned counsel for the applicant, whereas the questions of law at Sr.Nos.2 and 3 are already covered by the aforesaid judgments and answered in affirmative in favour of the respondent and against the applicant. The ITRA is disposed of accordingly.

Copy of this order may be transmitted to Appellate Tribunal Inland Revenue in terms of Section 133(5) of Income Tax Ordinance, 2001.

Judge

Judge

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