

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-1888 of 2010.

Date	Order with signature of Judge
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Priority Case.

1. For hearing of Misc. No.7590/10.
 2. For hearing of Main Case.
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23-12-2015.

Mr. Ali Almani, Advocate for the Petitioner.
Mr. Muhammad Saleem Mangrio, Advocate for respondent No.2.
Mr. Jawaid Farooqui, Advocate for the respondent.
Mr. Asim Mansoor, DAG.

Counsel for the petitioner submits that the controversy involved in this petition has already been decided by the Hon'ble Supreme Court vide Order dated 03.09.2014 in Civil Petition No.1306 of 2014 filed by the Commissioner of Income Tax, Rawalpindi Zone against Judgment dated 25.03.2014 of the Lahore High Court, Rawalpindi Bench, passed in I.T.R. No.01 of 2013, (**Commissioner Inland Revenue Vs. Maj. Gen. (R) Dr. C.M. Anwar & 2 others- 2015 PTD 424**), whereby, it has been held that the conclusion drawn by the learned High Court that Section 122(2) as amended by the Finance Act, 2009 shall have no retrospective effect and would not annul the past and closed transaction, when the assessment in favour of the respondent as per the deeming clause under Section 120 had become conclusive and the period for the purpose of invoking earlier Section 122(2) had expired on 28.09.2009, does not call for interference, and the petition filed by the

respondent-department having no merits, has been dismissed. Learned Counsel for the respondents does not controvert such position and concedes that since the matter has been finally decided by the Hon'ble Supreme Court; instant petition may also be disposed of in the same terms.

In the circumstances, the impugned notice dated 24.05.2010, whereby amendment is intended to be made in the assessment order for the tax year 2004, appears to be time barred as the deemed assessment order under Section 120 of the Ordinance 2001, dated 14.1.2005 for the Tax year 2004, had attained finality on expiry of five years as provided under the un-amended provision of Section 122(2) of the Ordinance, 2001, on 13.1.2010, hence, is held to be of no legal effect.

Petition stands allowed in the above terms.

Chief Justice.

Judge

Ayaz