

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Income Tax Reference Application No. 175 of 2017

Date

Order with signature of Judge

For hearing of main case.

**28.04.2025.**

Mr. Mukesh Kumar Khatri, Advocate for Applicant.

As per bailiff report notice stands duly served but no one has turned up. No further notice required. Service is held good upon the Respondent.

Through this Reference Application, the Applicant has impugned Order dated 03.12.2016 passed in ITA No. 83/KB/2014 (Tax Year 2009) by Appellate Tribunal Inland Revenue at Karachi, proposing the following question of law:-

“Whether under the facts and circumstances of the case the learned Tribunal was justified to uphold the order of the Commissioner (Appeals) deleting the addition made under section 109 on account of sale of vehicles to the employees when the vehicles were neither sold in open market nor through advertisements, but through negotiations and hence the transactions prima facie fell within the ambit of section 109, in the absence of any evidence to the contrary being brought by the taxpayer?”

Heard learned Counsel for the Applicant and perused the record. The relevant finding of the Tribunal in respect of proposed question is as under:-

“06      Ground No. 2

The ground is related to addition in value of vehicles sold to personnel of the respondent company which admittedly were used vehicles. The officer has invoked section 109 of the Ordinance 2009 while estimating the value. The perusal of relevant section show that the transaction are such which do not come under the ambit of any of the clause of section 109. The estimate made is without any basis. No inquiry from car dealers have been made while estimating the value. Further what were the conditions of vehicles at the time of sale is a fact on which we believe officer has no control. He has to rely on information as available with the respondent company. Since no exercise in respect of valuation of vehicles has been carried out we cannot approve the valuation, the addition made has rightly been deleted by learned first appellate authority.”

From perusal of the aforesaid finding of the Tribunal, it reflects that the Applicant at the initial stage as well as before this Court has failed to substantiate its allegation regarding determination of some fair market value of the vehicles sold by the Respondent to its employees. The Respondent had contested such determination of fair market value before the original authority and had stated that in fact the vehicles were sold on profit to its employees and such contention was not accepted by the Assessing Officer; rather hypothetically it was held that they do not reflect the fair market value. Before this Court even as well, nothing has been brought on record to substantiate the claim that the value of such vehicles was less than the actual fair market value. In that case the finding of the Tribunal appears to be correct and does not warrant interference. In our view, no substantial question of law is arising out of the impugned order; hence, we need not answer the proposed question. Accordingly, this Reference Application is *dismissed*.

Let copy of this order be issued to the Appellate Tribunal, Inland Revenue, Karachi in terms of section 133(5) of the Income Tax Ordinance, 2001.

**ACTING CHIEF JUSTICE**

**J U D G E**

Arshad