

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Special Federal Excise Reference Application No. 840 of 2017

Date

Order with signature of Judge

HEARING PRIORITY (CASE)

- 1) For hearing of main case.
- 2) For hearing of CMA No. 3447/2015.

30.04.2025.

Mr. Uzair Shoro, Advocate for Applicant.
Mr. Zakia Jatui holding brief for
Mr. Ameer Bakhsh Metlo, Advocate for Respondent.

This Reference Application has been filed by Pakistan International Airlines Corporation against order dated 29.06.2017 passed by the Appellate Tribunal Inland Revenue, Karachi in FE No. 22/KB/2014. PIAC is a State Owned Enterprise in terms of State Owned Enterprises (Governance and Operation) Act, 2023 and pursuant to Section 38 of Federal Excise Act, 2005 read with 134A of the Income Tax Ordinance, 2001 a mechanism has been provided for State Owned Enterprises ("SOE") to approach FBR in respect of adverse orders passed by the Inland Revenue Department. The most significant and the relevant amendment made, which in our view is fully applicable to the present Applicant, is that now it is ***mandatory*** for SOE to go for ADR, whereas the limit of Rs. 50 Million is also not applicable.

When confronted as to the above provision Counsel for PIAC / Applicant, submits that instructions are awaited. Whereas, Respondent's Counsel submits that even the Honourable Supreme Court has referred the matters filed by the Commissioner Inland Revenue to the Dispute Resolution Committee. He has placed on record copies of such orders passed in **Civil Petition No. 2106 of 2024 (Commissioner Inland Revenue, Corporate Zone, Regional Tax Officer, Islamabad v. M/s Islamabad Electric Supply Company Limited, (IESCO), Islamabad)**, Civil

Appeals No. 649, 650, 651, 652 of 2022 (*M/s. State Life Insurance Corporation of Pakistan v. The Assistant Commissioner of Income Tax, Karachi & others*) and Civil Petition Nos. 886-K, 887-K and 888-K of 2023 (*M/s. Trading Corporation of Pakistan v. The Commissioner of Income Tax, Karachi*).

In view of such position, this Reference Application is disposed of, whereas, in terms of Section 38 of Federal Excise Act, 2005 read with 134A of the Income Tax Ordinance, 2001, matter stands referred to FBR to form a Committee as required under the new amended provision and till such time the matter is finally decided by the said Committee, no coercive measures be adopted against the Applicant for recovery. Once a decision has been given by the Committee, the Applicant if aggrieved, may seek further remedy in accordance with law.

With these observations, this Reference Application is hereby disposed of.

ACTING CHIEF JUSTICE

J U D G E

Arshad