

proceedings, the taxpayer has failed to substantiate its stance with any supporting document and never filed any details as to the amount of commission offered for promotion and the tax required to be deducted. According to him this case is fully covered by the judgment passed in the case of **Wazir Ali Industries** (supra).

Heard learned Counsel for the parties and perused the record. At the very outset, we have noticed that insofar as finding of the Tribunal is concerned, despite the judgment in the case of **Wazir Ali Industries** (supra) being in field at the relevant, time has not dilated upon the same; nor has distinguished it. In fact, it was incumbent upon the Tribunal to examine the said judgment, as well as the question of law¹, and thereafter, decide the issue finally. Apparently, the general provision (s.156) is applicable on all sorts of prizes offered by the Companies for promotion of sales, including any free units given to the distributors for sales promotion. From perusal of the arguments raised on behalf of the Respondents before the Tribunal, it clearly reflects that according to them the amount in question though represents an incentive, being in nature of discount allowed to petrol pump operators on promotion of sales in normal course of business but is not a prize on promotion of sales. On the other hand, the case of the department is that since prize, award or reward has not been defined in the Ordinance in question; therefore, any target incentive including sales promotion falls within the ambit of Section 156 of the Ordinance. The Tribunal's order has failed to deal with this aspect of the case and so also the judgment in the case of **Wazir Ali Industries** (supra); therefore, we are left with no choice; but to set aside the order in question and remand the matter to the Tribunal for a decision afresh in

¹ "Whether on the facts and circumstances of the case, the Appellate Tribunal was justified to hold that the prize offered by companies for promotion of sales as used in section 156 of the Income Tax Ordinance, 2001 covers the amount of free units given by the applicant company to the distributors towards sales promotion?"

accordance with law; keeping in view the judgment of this Court in the case of **Wazir Ali Industries** (supra). **Ordered accordingly.** Matter be decided by the Tribunal preferably within a period of 90 days from the date of this order.

All listed Reference Applications stand disposed of. 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 and a copy of this order may also be placed in the connected cases.

CHIEF JUSTICE

J U D G E

Ayaz