

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special STRA 173 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.3827/2024.
2. For hearing of main case.
3. For orders on CMA No.3828/2024.

24.03.2026

Mr. Shamshad Ahmed, advocate

This reference remains pending since 2024 in the docket without any progress. The order sheet demonstrates that the applicant has made no effort to ever have the matter listed / heard since filing hereof. The matter was listed today and it was observed that the learned appellate tribunal had merely remanded the matter for adjudication afresh on 15.08.2024.

Prima facie it is a simple remand order rendered almost a year and a half ago and no finding adverse finding, with regard to either party, has been demonstrated before the Court. Applicant's learned counsel was queried as to the fate of the remand proceedings, however, he professed to be unaware of any information in such regard.

As a general principle, a reference application against a remand order is seldom entertained; unless it can be demonstrated that a manifest prejudice is being caused to the position of either party¹. No such apprehension has been articulated herein. Earlier Division bench judgments have consistently deprecated the tendency to mechanically assail remand orders; as recently reiterated by this Court in *Philip Morris*².

Since no question of law has been articulated before us coupled with binding nature of the authority cited supra, therefore, this reference is found to be frivolous and misconceived, hence, dismissed.

Respectfully, the matter ought not to end here. The Supreme Court has taken judicial notice of the fact that the fiscal docket in the superior courts has been clogged with unmerited litigation, including that precipitated / perpetuated at the behest of Revenue. The Supreme Court considers such conduct as that of a *habitual litigant* in the recent Supreme Court judgment in the case of *Umar Tariq Khan*³ especially paragraphs 8, 9 and 10 thereof; that read as follows:

“8. When government departments routinely file appeals/petitions (often up to the High Courts and the Supreme Court) on questions of law that have already been authoritatively settled, the practice results in serious institutional harms. The most 1 As sought vide

¹ *ITRA 345 & 346 of 2016*, order dated 09.12.2019; Reliance was placed upon Commissioner of Income Tax, Central Zone 'B', Karachi vs. Electronic Industries Ltd., Karachi [1988 PTD 111]; The Commissioner of Income Tax West Zone, Karachi and another vs. Khairpur Textile Mills Ltd. and others [1989 PTD 500]; and E.M. Oils Mills and Industries Ltd. through Director vs. Commissioner of Income Tax, Audit Division II, Companies III, Karachi [2011 PTD 2708].

² Per *Muhammad Osman Ali Hadi* in *Philip Morris vs. CIR (SFERA 39 of 2022)*; judgment dated 24.11.2025.

³ Per *Miangul Hassan Aurangzeb J* in *ACIR Rawalpindi vs. Umar Tariq Khan (CPLA 1990 of 2025)*; judgment dated 15.01.2026.

statement dated 13.02.2026; filed in Court and hereby taken on record. immediate consequence is the clogging of court dockets. Courts are compelled to spend scarce judicial time revisiting issues that are no longer *res integra* at the cost of undecided legal and constitutional questions, criminal appeals involving personal liberty, and civil disputes pending for years. This undermines the constitutional mandate of speedy justice. Repeated appeals/petitions on settled law weaken respect for Article 189 of the Constitution, the doctrine of *stare decisis*, and judicial discipline within the executive branch. When the State itself disregards binding precedents, it sends the wrong signals to subordinate courts, tribunals, and litigants. Such appeals/petitions result in unavoidable litigation costs, consumption of public funds for counsel, court fees and administrative processing.

9. The State is expected to act as a responsible and fair litigant, not as a compulsive appellant/petitioner. The practice and tendency within government departments to file appeals/petitions mechanically, particularly when the outcome is foreseeable in light of settled law, has already been deprecated by this Court in the judgments reported as *Federal Public Service Commission through Secretary, Islamabad Vs. Kashif Mustafa (PLJ 2025 SC 386)*, *Director General, Rawalpindi Development Authority Vs. Mian Muhammad Sadiq (PLD 2006 SC 142)*, *Regional Manager, NADRA RHO, Hayatabad, Peshawar Vs. Mst. Hajira (2024 SCMR 197)*, *State Life Insurance Corporation of Pakistan Vs. Mst. Zubeda Bibi (2024 SCMR 426)* and *Amjad Ali Vs. Board of Intermediate and Secondary Education (2001 PLC (CS) 280)*.

10. Courts already possess both constitutional authority and jurisprudential tools to address the problem of repeated appeals/petitions by government departments on settled questions of law. Not just can the courts dismiss such appeals/petitions in limine, one of the most effective tools is the imposition of costs. In egregious cases, courts may require identification of the officer for authorizing the appeals/petitions. It is imperative for there to be internal accountability by government departments and careful legal scrutiny before filing appeals/petitions. Had such scrutiny taken place before the filing of the instant petition, it would have been realized that the primary question of law sought to be agitated by the petitioners already stands authoritatively settled by a number of judgments of this Court referred to herein above. In the case of order to address this problem it is imperative for the Chairman, F.B.R. to consider constituting committees which function with the highest degree of independence and includes a retired Judge of the superior judiciary, an experienced tax practitioner, and senior serving or retired officers of the F.B.R. with distinguished record and impeccable credentials with the mandate to timely examine each case before a decision is made to file a reference before the High Court or a petition before this Court. The F.B.R. may also consider undertaking review of all pending cases in order to determine whether the questions of law sought to be agitated therein already stand settled by judgments of superior courts.”

It is apparent that precipitation and / or perpetuation of unmerited litigation has been unequivocally disapproved by the superior courts and the aforementioned judgment meticulously reiterates the same.

Prima facie the present case appears to fall within the ambit of such proscription. Perpetuating such matters clogs the docket of the Courts and the consequence thereof is eventually borne by revenue. The

learned counsel's assistance was sought, however, the outcome was as particularized supra. While exercising maximum restraint, we leave mitigation of such matters to the better judgment of the Exchequer.

The Office is instructed to directly convey a copy hereof to the learned Chairman Sindh Revenue Board.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Tribunal, as required per section 63(5) of the Sindh Sales Tax on Services Act, 2011.

Judge

Judge

Khuhro/PS