

IN THE HIGH COURT OF SINDH AT KARACHI
Income Tax Reference Application No.22 of 2026

Date	Order with Signature of Judge
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Hearing of case (priority)

1. For orders on CMA No.227/2026
2. For hearing of CMA No.228/2026
3. For hearing of main case

26.03.2026

Mr. Abdul Rahim Lakhani, Advocate for the applicant
a/w Mr. Atta Muhammad Qureshi, Advocate.
Mr. Irfan Mir Halepota, Advocate for the respondent

The following questions of law had been proposed for determination:

- I. Whether on the facts and under circumstances of the case the learned Appellate Tribunal Inland Revenue has erred in holding gain on sale of immoveable property as business income under section 18 (1) (a) of the Income Tax Ordinance, 2001, instead of capital gain under section 37 (1A) of the Income Tax Ordinance, 2001?
- II. Whether on the facts and under circumstances of the case the learned Appellate Tribunal Inland Revenue has erred in not considering the revised wealth statement dated 30th June 2020 available on record, while confirming addition under section 111 (1) (a) of the Income Tax Ordinance, 2001, which amounts to non-reading and misreading of the evidence?
- III. Whether on the facts and under circumstances of the case the learned Appellate Tribunal Inland Revenue was justified in confirming addition under section 39 (3) of the Income Tax Ordinance, 2001 on advance received against sale of immovable property without appreciating subsection (4) of Section 39 of the Income Tax Ordinance, 2001?
- IV. Whether on the facts and under circumstances of the case, the learned Appellate Tribunal Inland Revenue acted lawfully in confirming the amount declared under the Asset Declaration Act, 2019 as income from other sources chargeable to tax under section 39(3) of the Income Tax Ordinance, 2001?"

Learned counsel for the applicant argued that the impugned judgment has been rendered *prima facie* in disregard of the judgment of Hon'ble Supreme Court in the case of Millat Tractors reported as 2024 SCMR 700 and the same is discernable from the very notice under Section 122(9) of the Income Tax Ordinance, 2001, available at page 91. He states that the notice in itself recognizes that no separate notice / order under Section 111 of the Income Tax Ordinance has ever been issued / rendered. He seeks that it may be just and proper for the impugned judgment to be set aside and matter remanded back to the learned Tribunal for adjudication afresh in accordance with law. He further seeks that pending the aforesaid, no coercive action be taken against the applicant arising herefrom. Learned counsel for the respondent articulates no

civil to the aforesaid and states that this reference may be disposed of as aforesaid. Order accordingly.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal, as required per section 133(8) of the Income Tax Ordinance, 2001.

JUDGE

JUDGE

Asif