

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**

ITRA 462 of 2024

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DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection
2. For hearing of CMA No.3729/2024
3. For hearing of main case

**13.05.2026**

Mr. Faheem Ali Memon, advocate for the applicant

Following questions of law had been proposed for determination:

- “1) Whether under the facts and circumstances of the case, learned Appellate Tribunal Inland Revenue grossly erred in deleting the default Surcharge without considering that the issue was not imposition of Default Surcharge, adjudged under Section 34 of The Sales Tax Act 1990 for Infringement of provisions of the Act *ibid*, but of disallowance of Default Surcharge as deduction in terms of Section 20 and 21(g) of Income Tax Ordinance, 2001.
- 2) Whether under the facts and circumstances of the case, learned Appellate Tribunal Inland Revenue erred in relying on judgment of this Honorable Court in SSTR 191 of 2018 without realizing that the said Judgment related to imposition of default Surcharge adjudged Under Section 34 of The Sales Tax Act 1990 and was not related to the issue of disallowance of default Surcharge as deduction Under Section 21(g) of the Income Tax Ordinance, 2001.”

Notwithstanding the foregoing, learned counsel states no findings have been rendered and insofar as question No.1 is concerned, the same is not befitting the last appellate forum in the statutory hierarchy.

Learned counsel demonstrates that this matter has been pending for almost three years and despite service the respondent is avoiding adjudication. He places courier tracking report on record to demonstrate that service has been effected on the respondent.

The Appellate Tribunal is the last fact-finding forum in the statutory hierarchy; therefore, it is incumbent upon it to render independent deliberations and findings on each issue. The manner in which the appeals in general are to be addressed has been emphasized by the Supreme Court in the judgment reported as 2019 SCMR 1726. This High Court has consistently maintained that the Appellate Tribunal is required to proffer independent reasons and findings,

and in the absence thereof a perfunctory order could not be sustained. Reliance is placed on the judgment dated 02.10.2024 in SCRA 1113 of 2023 and judgment dated 27.08.2024 in SCRA 757 of 2015. Earlier Division Bench judgments have also maintained that if the impugned order is discrepant in the manner as aforesaid, the correct course is to remand the matter for adjudication afresh. Reliance is placed on the judgment dated 10.12.2024 in ITRA 343 of 2024.

We are of the considered view that the impugned order could not be considered to be a speaking order and is *prima facie* devoid of any independent reasoning etc. The entire order comprises essentially of reproduction and is crowned with a dissonant conclusion. Hence, no case is set forth to sustain the impugned order, which is hereby *set aside* and the matter is remanded back to the Appellate Tribunal for adjudication afresh in accordance with law.

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

Amjad