

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Spl. FERA 85 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of CMA No.939/2026

22.10.2026

Mr. Ghazi Khan Khalil, advocate for the applicant

Notice of the application was issued on 27.04.2026. No opposition to the same has been received. Application is allowed and the reference application is restored.

Following questions of law are proposed for determination:

- i. Whether the learned Appellate Tribunal erred in law in excluding insurance fee received by the respondent banking company from the charge of Federal Excise Duty under sections 2(16a) and 3 of the Federal Excise Act, 2005 read with Table II, Entry No. 8 of the First Schedule, the relevant tariff heading for banking services, and Rule 40A of the Federal Excise Rules, 2005?
- ii. Whether the learned Appellate Tribunal misconstrued Rule 40A of The Federal Excise Rules, 2005 in holding that merchant discount and interchange fee were outside the levy of Federal Excise Duty, despite the charging and definitional provisions contained in sections 2(16a), and 3 of the Federal Excise Act, 2005 read with Table II, Entry No. 8 of the First Schedule and the relevant tariff heading for banking services?
- iii. Whether the learned Appellate Tribunal erred in law in excluding overdrawn limit fee and late payment charges from levy of Federal Excise Duty by holding the same as a penalty, although such receipts constituted consideration in the form of fee, commission or charges linked directly to services rendered?
- iv. Whether the learned Appellate Tribunal misconstrued Rule 40A of the Federal Excise Rules, 2005 in holding that tax advance charges were outside the levy of Federal Excise Duty?
- v. Whether the impugned order is liable to be set aside for being based on misreading and non-reading of the Federal Excise Act, 2005 and the Federal Excise Rules, 2005 and for failing to provide separate and reasoned findings on each disputed category of banking receipt?

Learned counsel states that the said questions have been decided against the applicant department by virtue of Division Bench judgment of this court in the case of Citi Bank reported as 2014 PTD 284. Learned counsel states that the said judgment is squarely binding upon this court, therefore, in mutatis mutandis application thereof the reference application be dismissed subject to right of the appeal of the applicant before the honourable Supreme Court of Pakistan. 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 34A (2) of the Federal Excise Act, 2005.

Judge

Judge

Amjad