

**ORDER SHEET**  
**THE HIGH COURT OF SINDH AT KARACHI**  
Special STRA No.276 of 2018

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Date	Order with signature of Judge(s)
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1. For orders on office objection No.19
2. For hearing of Main case.

**12.10.2021**

Mr. Ameer Bux Metlo, Advocate for the Applicant

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The applicant has assailed order of the learned Appellate Tribunal Inland Revenue dated 07.02.2018 (“Impugned Order”) and questioned the deduction of petroleum levy from gross sales. It is considered expedient to reproduce the operative findings reproduced herein below:

*“We are of the opinion that Federal Board of Revenue has no jurisdiction to exercise powers to raise any enquiry in respect of Petroleum Levy as it does not fall under the domain of Federal Excise Act, 2005. Audit of Petroleum Levy is always carried out by Director General Revenue and Receipt of Government of Pakistan on the instructions of the Ministry of Petroleum regularly. Moreover, the details/proof of payment of Petroleum Levy furnished before us by learned AR, in the light of which, the learned CIR (Appeals) has rightly deleted the levy of sales tax on Petroleum Levy, already included in sales value for the purposes of charging sales tax thereon. Furthermore, Financial Statements, along with a summary also show that the Petroleum Levy is included in the sales revenue for the purpose of levy of Sales Tax and then was deducted from the gross amount in order to arrive at Net Sales, for Accounts presentation purpose. This presentation also stands certified by a well known Firm of Chartered Accountants. In view of the foregoing discussion, we uphold the order of learned CIR (Appeals) on the issue under consideration.”*

Briefly stated an order-in-original was passed with respect to the respondent wherein the quantum of petroleum levy was included in the sales amount for computation of tax, on account of no documentary evidence having been seen by the concerned officer in such regard. The appeal there against was allowed after the learned Commissioner Appeals upon being satisfied that the relevant levy has been paid and the same was demonstrated there before. The applicant appealed the said findings before the Appellate Tribunal Inland Revenue and vide the Impugned Order the appeal in such regard was dismissed and the order of the learned Commissioner Appeals was upheld. It is observed that while confronted with the sales figure in the financial accounts and sales tax returns of the respondent the Assessing Officer had noticed a difference. Since it was claimed that no documentary evidence was submitted to justify the said difference therefore the differential amount was treated as sales on which sales tax was required to be paid. In appeal it was found that the differential amount was satisfactorily explained and the corroboration in respect thereof had also been provided. Therefore, the

differential amount was found to have been justified and the assessment order was set aside/modified in such regard. As reproduced supra, learned Tribunal was also satisfied that the differential amount has been justified on the basis of evidence, hence, the order of the Commissioner Appeals was upheld.

The applicant has proposed various questions of law which we, respectfully, consider extraneous and dissonant to the Impugned Order. The learned Appellate Tribunal has already appraised the evidence and concluded that the relevant findings in the original assessment order were not borne out of the evidence. It is settled law that the learned Tribunal is the final arbiter of facts and factual controversies are not amenable before the Reference jurisdiction of this Court.

In view hereof we are of the considered view that the applicant has failed to raise any question of law arising out of the Impugned Order meriting the consideration of this court, therefore, the present reference is hereby dismissed in *limine*.

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 Inland Revenue, as required per section 47(5) of the Sales Tax Act, 1990.

JUDGE

JUDGE

*Amjad/PA*