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Lahore High Court, Lahore
3/11/23

Form No.HCJD/C-121

ORDER SHEET

IN THE LAHORE HIGH COURT, LAHORE.

JUDICIAL DEPARTMENT

PTR No.511 of 2012

Commissioner Inland Revenue, Vs. Silver Fiber Spinning Mills
Lahore. Limited, Lahore.

Sr. No. of order/proceeding	Date of order/proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
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26.01.2023 Mr. Shahbaz Ahmad Cheema, Advocate/Legal Advisor for applicant-department.
Mr. Faisal Rasheed Ghouri, Advocate for respondent-taxpayer.

C.M. No.01/2022

This is an application under Section 151 CPC seeking framing of following additional questions for our determination, moved by the applicant-department:-

1. Whether on the facts of the case, the learned Tribunal was justified to accept a new ground/plea qua markup remission u/s 34A of the Ordinance, that was not raised before the assessing authority?
2. If the answer to the above-referred question is in the affirmative, whether the learned Tribunal was not required to consider that the amount remitted was taxable in any other provision of the Ordinance?
3. Whether the procedural lapse be allowed to deprive the Public Fund of its legitimate receipt?

2. Learned counsel for applicant-department submits that above additional questions are necessary in order to reach just decision of this case.


3. Learned counsel for respondent-taxpayer has opposed the application on the grounds that same cannot be entertained after expiry of limitation period.

4. In terms of Section 133 of the Income Tax Ordinance, 2001, Reference Application is to be filed in

the prescribed form and within prescribed period along with a statement of the case before this Court, stating any question of law arising out of Appellate Tribunal's order. Under Sub-section (1) of Section 133, if this Court is satisfied that a question of law arises out of the impugned order, it may proceed to hear the case. So far as framing of additional questions of law is concerned, we are of the view that such request after the limitation period provided in Sub-section (1) of Section 133 is not tenable. Reference can be made to Commissioner Inland Revenue v. Messrs Pak Arab Pipe Line Company Ltd. (2014 PTD 982).

5. In view of above, instant CM is dismissed.


(Asim Hafeez)
Judge


(Muhammad Sajid Mehmood Sethi)
Judge

Ahsan

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Lahore High Court, Lahore

31/11

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31/11

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07/02/23

IN THE LAHORE HIGH COURT, LAHORE

For Private Use

Section
Lahore High Court, Lahore
3/11/23

P.T.R.NO. 511 /2012
(TAX YEAR 2005)

TRUE COPY
Examiner J.C. Copy Branch
Lahore High Court, Lahore
3/11

Commissioner Inland Revenue,
Zone-III, Large Taxpayers Unit,
Lahore

Applicant.

Versus

Silver Fiber Spinning Mills Limited,
61-K, Gulberg-III, Lahore,

Respondent

Reference Petition: U/S 133 OF THE INCOME TAX ORDINANCE, 2001 AGAINST ATIR'S ORDER IN I.T.A. No.164/LB/2011 - DATED 27.06.2012 - TAX YEAR 2005

Respectfully sheweth:

1. The taxpayer, an unquoted public limited company, derives income from the business of textile spinning. Brief facts of the case are that the income declared for Tax Year 2005 at Rs.498,274/- was deemed assessed u/s 120 of the Income Tax Ordinance, 2001. The case was selected for audit u/s 177 of the Ordinance and the assessment proceedings were finalized by making certain additions under various heads vide order u/s 122(1)/122(5) dated 28.02.2009. (Annexure-A)
2. The taxpayer being aggrieved filed an appeal before the learned Commissioner (Appeals) who vide order No.20 dated 25.11.2010 upheld the order of the Assessing Officer on all the issues. (Annexure-B).
3. The order of the Commissioner (Appeals) was contested by the taxpayer before the learned Appellate Tribunal Inland Revenue, Lahore. The taxpayer challenged the jurisdiction of the Deputy Commissioner as well as delegation of powers to the Deputy Commissioner by the Commissioner Inland Revenue. The learned ATIR vide its order No.164/LB/2011 dated 27.06.2012 (Annexure-C) pronounced that no inference is warranted in this regard and decided the case on merit as under:

