

Form No: HCJD/C-121  
**ORDER SHEET**  
**IN THE LAHORE HIGH COURT**  
**MULTAN BENCH, MULTAN**  
**JUDICIAL DEPARTMENT**

**Tax Reference No.12 of 2018**

*The Commissioner Inland Revenue* V/S

*M/s Ali Aqib & Company*

<i>S.No.of order / Proceedings</i>	<i>Date of order /Proceedings</i>	<i>Order with signatures of Judge, and that of parties or counsel, where necessary.</i>
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**21.01.2019**

Mr. Agha Muhammad Akmal Khan, Advocate for the Applicant.

Mr. M. Imran Ghazi, Advocate for respondent.

This Reference Application under Section 133 of the Income Tax Ordinance, 2001 (the "**Ordinance**") has been filed by the Applicant, being dissatisfied by the order passed by the Appellate Tribunal Inland Revenue, Lahore ("**Appellate Tribunal**") in I.T.A.No.259/LB/2018 dated 11.05.2018. The following questions of law are said to arise out from the impugned order:

**QUESTIONS OF LAW**

- I). "Whether under the facts and circumstances of the case, the learned ATIR was justified to delete the penalty levied under clause (1A) of sub-section (1) of Section 182 of the Income Tax Ordinance 2001 "the Ordinance" in complete disregard of statutory provision of law prescribed for furnishing monthly withholding statement within the stipulated time in terms of Section 165 of the Ordinance?"
- II). "Whether under the facts and circumstances of the learned ATIR was justified to delete the penalty levied under Section 182 of the Ordinance despite admission of default in submission of monthly statement within stipulated time by the taxpayer itself?"

ATTESTED  
29-1-2026  
EXAMINER  
COPY SUPPLY SECTION  
LAHORE HIGH COURT  
MULTAN BENCH MULTAN

2. We have heard the learned counsel for the Applicant at length and have gone through the order dated 11.05.2018 passed by the Appellate Tribunal. We have noted that the Appellate Tribunal has already given findings on the issues under discussion in its own judgment which was never challenged by the Applicant. Relevant portion of the order is reproduced hereunder:

*“Arguments heard and record perused. Admittedly, in the case in hand, statement u/s 165 of the Ordinance could not be filed within time. However, I also find myself in agreement with the contention of taxpayer’s representative that since, no loss of revenue is involved in the case in hand, therefore, relief allowed by learned CIR (Appeals) by deleting the penalty of Rs. 10,000/- by placing reliance on the judgment of this Tribunal seems to be justified and I find no plausible reason for interference. In view of the foregoing discussion, the impugned order suffering from no legal infirmity is hereby confirmed by way of dismissal of instant departmental appeal, I order accordingly”.*

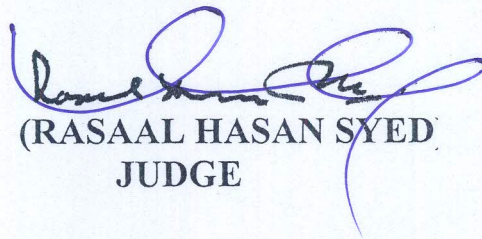
3. We agree with the findings of the Appellate Tribunal and see no reason to interfere with the impugned order which does not suffer from any factual or legal infirmity as the same has been passed after scrutinizing the relevant record as well as on the basis of sound reasoning. Moreover, it is by now well settled that High Court has to decide reference application on facts and circumstances founded by Appellate Tribunal, in the exercise of advisory jurisdiction, which is the last fact finding forum. High Court cannot change findings of facts arrived at by the Appellate Tribunal unless the same are shown to be perverse and contrary to record. Reference can be made to Messers F.M.Y. Industries Ltd. V. Deputy Commissioner Income Tax (2014 SCMR 907), Commissioner Inland Revenue, Zone-II Regional Tax Office-II v. Messers Sony Traders Wine Shop (2015 PTD 2287), Messers Pak Suzuki

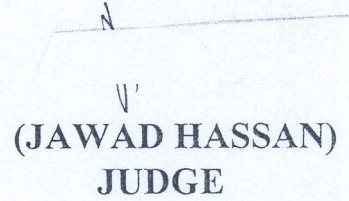
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MILTAN BENCH, MILTAN

Motor Company Limited, Karachi v. Collector of Customs, Appraisal Collectorate, Custom House, Karachi (2015 PTD 2600) and Commissioner of Income Tax, Legal Division, R.T.O. v. Messers Matrix Press (Pvt) Ltd. (2016 PTD 97).

4. Therefore, the Reference application is decided against the Applicant.

5. Office shall send a copy of this order under seal of the Court to the Appellate Tribunal as per Section 133(5) of the Ordinance.

  
(RASAAL HASAN SYED)  
JUDGE

  
(JAWAD HASSAN)  
JUDGE

Khurram\*

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