

**APPELLATE TRIBUNAL INLAND REVENUE LAHORE BENCH,**  
**LAHORE**

ITA No.1909/LB/2013  
(Tax Year 2012)

**M/s Asia Ghee Mills (Pvt) Ltd., Bahawalpur... Appellant**  
Versus

CIR, RTO, Bahawalpur. ..Respondent

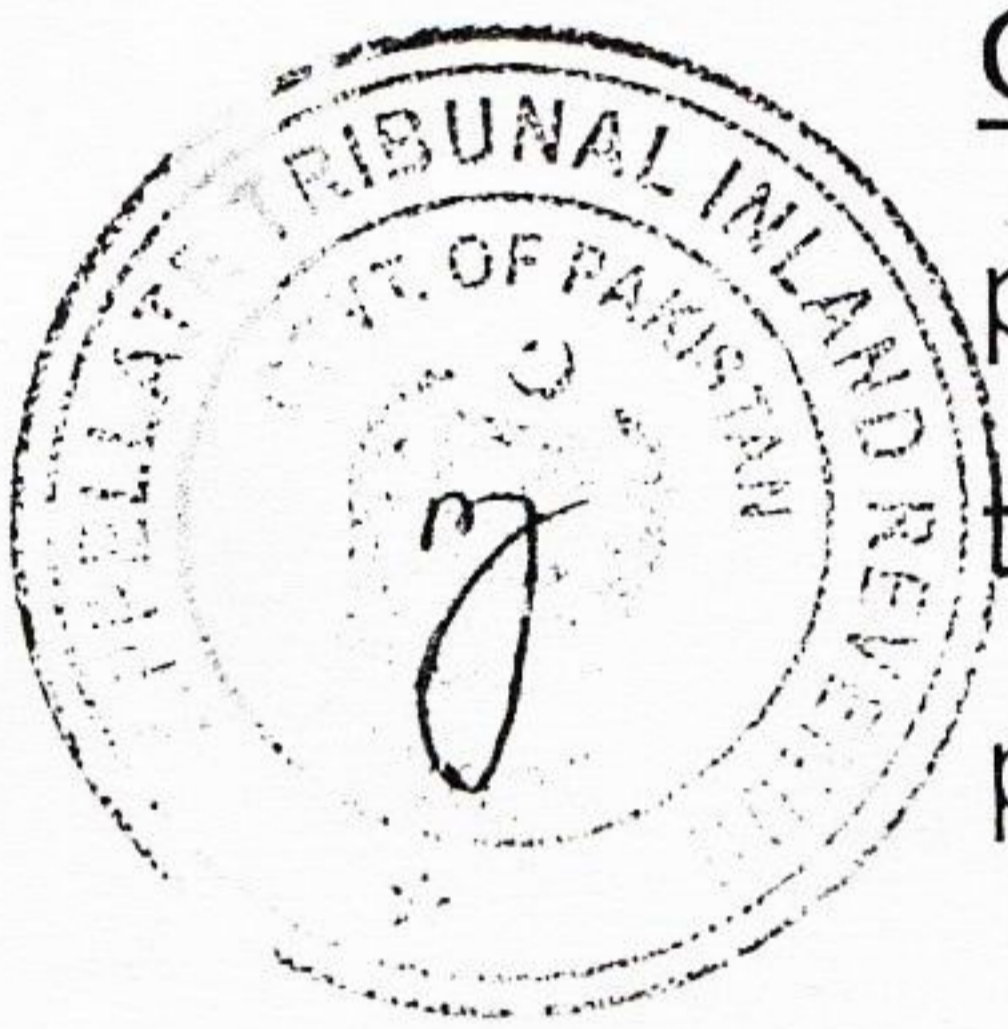
Appellant by: Mr. Muhammad Ashraf Reza, ITP  
Respondent by: Ms. Misbah Nawaz, DR

Date of hearing: 14.05.2014 Date of order: 14.05.2014

**ORDER**

**CH. ANWAAR UL HAQ (Judicial Member):** The titled appeal pertaining to tax year 2012, has been preferred at the instance of taxpayer calling in question the impugned order, dated 12.08.2013, passed by the learned CIR (Appeals), Multan.

2. The taxpayer / company in the return filed for tax year 2012, declared income (excluding income pertaining to FTR) at Rs.141,984,645/-. Upon said income, the taxpayer company worked out WWF in terms of clause (f) (2) of Section 2 of WWF Ordinance, 1971 at Rs.2,784,013/-. Subsequently, the deemed assessment for the year was amended u/s 221 of the Income Tax Ordinance, 2001, and WWF liability was recomputed. The assessing authority worked out WWF liability on the basis of net profit for the year (including income from FTR). The said charge of WWF was assailed before the learned CIR (A) on the ground that the levy of WWF on the PTR income was unjustified as no WWF could be chargeable on this notional income. Before the learned CIR (A), the learned AR relied upon the Single Bench judgment of the Lahore High Court rendered in "**East Pakistan Chrom Tannery Pvt. Ltd Vs. Federation of Pakistan and others**" (2011 **PTD 2643**), wherein the amendments made in WWF Ordinance, 1971 in the years 2006 & 2008 have been declared unconstitutional. On the other hand, it was the departmental



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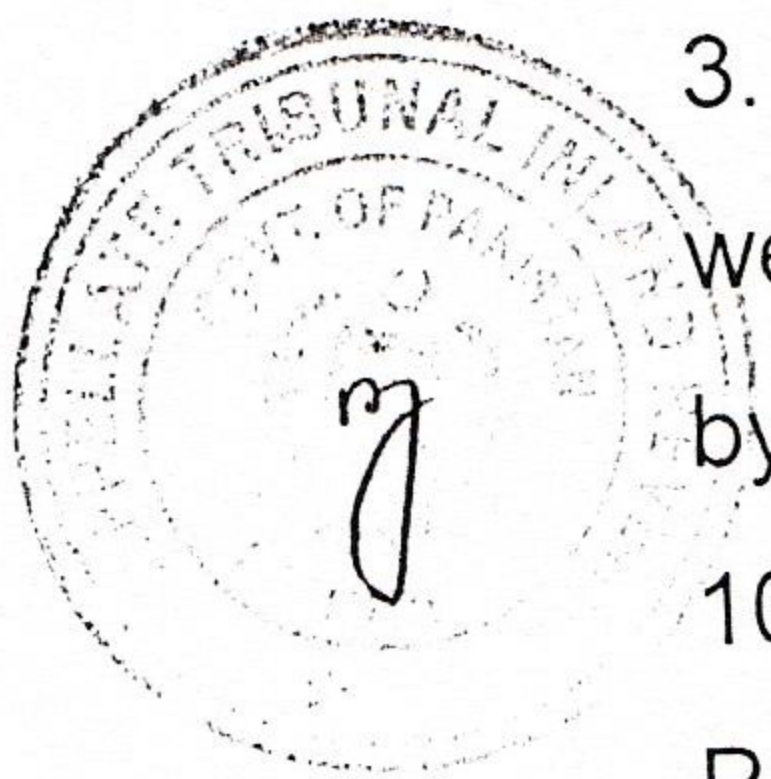


contention that the Hon'ble Sind High Court in a Division Bench decision reported as 2013 PTD 969, has held the said amendment in law as constitutional and since the said judgment was of a Division Bench of the Hon'ble Sind High Court, therefore, the same would prevail over the Single Bench judgment of the Hon'ble Lahore High Court. Accordingly, the learned CIR(A) upheld the charge of WWF in the case after relying on the judgment of the Division Bench of the Hon'ble Sind High Court.

3. We have looked into the matter and after due consideration, we find that the issue involved in the case has already been settled by the Hon'ble Lahore High Court in the case reported as (2011) 104 Tax 241 = 2011 PTD 2643 and in a recent judgment in Writ Petition No.10617 fo 2013 dated 06.06.2013, wherein the amendments made in WWF Ordinance, 1971 in the years 2006 & 2008 have been declared unconstitutional. As regard's departmental view that the Hon'ble Sind High Court in a Division Bench decision reported as 2013 PTD 969, has held the said amendment in law as constitutional and since the said judgment was of a Division Bench of the Hon'ble Sind High Court, therefore, the same would prevail over the Single Bench judgment of the Hon'ble Lahore High Court. We are of the considered opinion that in the said judgment of the Lahore High Court the judgment of Hon'ble Sind High Court **(2010-PLC-3906)** was duly discussed at length and the Hon'ble Judge has respectfully disagreed with the reasoning. Therefore, the ratio decidendi of the Hon'ble Lahore High Court would prevail in the case. Reliance in this regard is also placed on the decision of the Hon'ble Sind High Court reported as 2005 PTD 2586, wherein it was held as under: -

*"... if there is difference of opinion between the High Courts, all the subordinate Courts including Benches of the Income Tax Appellate Tribunal are required to follow the view taken by the High Court within whose jurisdiction they are working"*

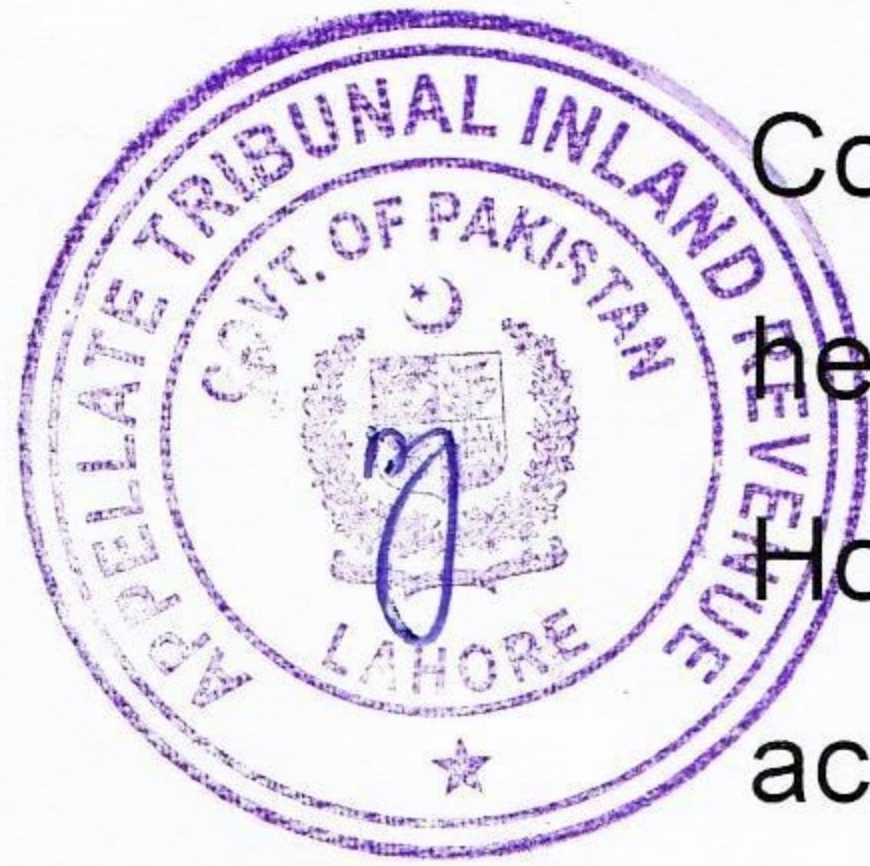
Since, the case of the instant taxpayer falls within the territorial jurisdiction of the Hon'ble Lahore High Court, therefore,





the ratio settled by the Hon'ble Lahore Court reported as (2011) 104 Tax 241 = 2011 PTD 2643, would prevail in the case.

Consequently, the charge of WWF through order passed u/s 221 is hereby deleted by respectfully following the said decision of the Hon'ble Lahore High Court. Order of the learned CIR (A) is accordingly vacated and appeal of the taxpayer is accepted.



*-sd-*  
**(MOHAMMAD RAZA BAQIR)**  
Accountant Member

*-sd-*  
**(CH. ANWAAR UL HAQ)**  
Judicial Member

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