

GOVERNMENT OF PAKISTAN  
REVENUE DIVISION  
FEDERAL BOARD OF REVENUE  
(LEGAL WING)  
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No. 1(21)S(Legal-DT)/15

Islamabad, the, February, 09, 2015.

To

1. The Chief Commissioner Inland Revenue,  
LTU/RTOs
2. All Commissioners IR(Appeals)

Subject:- CIRCULATION OF ATIR JUDGEMNT ITA NO.1078 & 1079/LB/2010, ASSESSMENT YEAR 2004 AND 2008, DATED 16.03.2012, IN M/S NEW DEFENCE ESTATE LAHORE VS CIR, LAHORE

I am directed to draw your attention to the noted subject and enclose full bench decision of the Honorable ATIR in the subject case, wherein at para 16 to 17 it has been decided that the CIR(A) has no jurisdiction to remand back the case to the Assessing Officer for new assessment order.

2. I am further directed to circulate the decision for reference purposes.

Encl: ( as above)

  
( Nowsherwan Khan)  
Secretary (Legal-DT)

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IN THE APPELLATE TRIBUNAL INLAND REVENUE, LAHORE  
BENCH, LAHORE

I.T.A. No.1078/LB/2010  
Tax Year 2004  
&  
I.T.A. No.1079/LB/2010  
Tax Year 2008

15/12/2011/1220  
4/3 11/177(4)  
- ATIR -> Annul  
- CIR (A) -> Remand  
- Feasibility Report

M/s New Defence Estate, 90-Y, DHA, Lahore.

...APPELLANT

VERSUS

The C.I.R, Audit Division-II, RTO, Lahore.

...RESPONDENT

Appellant by :- Mian Ashiq Hussain, Advocate

Respondent by :- Mr. Yasir Pirzada, D.R.

Date of hearing :- 15-02-2012

Date of order :- 16-03-2012

21/03 S.A Form  
5231  
21-03-012

**ORDER**



Titled appeals have been arisen out of the consolidated impugned order dated 02.06.2010, passed by the learned Commissioner of Inland Revenue (Appeals-II), Regional Tax Office, Lahore whereby he, relying on the judgment of this Tribunal in ITAs No.420 & 421/IB/2009 dated 01.12.2009, remanded the case back to the Assessing Officer for afresh assessment. The appellant has contested that the learned CIR (Appeals) lacked jurisdiction to remand the case and even otherwise the remand was unlawful as it was the case warranting annulment of assessment orders.

2. The brief facts of the case are: the appellant, an AOP, derives income from dealing in real estate, as commission agent and from construction of buildings. The appellant filed the returns of income for Tax Years 2004 & 2008 declaring income at Rs.695,108/- & Rs.454,166/- respectively. The returns of the AOP were treated as assessment orders in terms of Section 120 of the Income Tax Ordinance, 2001 (the Ordinance). The case for both the years was selected for audit under Section 177(4) of the Ordinance. The learned Assessing Officer obtained bank statements of the appellant from its bankers and summed up the totals of the deposits in the bank statements and issued show cause notice to the appellant requiring it to explain why the totals of the deposit entries in the