

HCJD/C-121
JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD

I.T.R. No.20 of 2019

Commissioner Inland Revenue, RTO, Islamabad
Versus
Shazia Nazir

Applicant by : Mr. Babar Bilal, Advocate.
Respondent by : Mian Shafqat Jan, Advocate.
Date of Decision : 27.01.2026

Babar Sattar, J:- This reference arises from a judgment of the Appellate Tribunal Inland Revenue dated 11.02.2019.

The question framed for our consideration is as follows:

Whether the credit entries appearing in the bank statement of a person which remained unexplained despite provision of proper opportunity, does not constitute definite information in terms of section 122(8) of the Income Tax Ordinance, 2001 attracting the provisions of section 122(5) read with section 111(1)(d) of the Ordinance?

3. Learned counsel for the Tax Department submitted that the respondent was seeking to rely on a judgment rendered by this Court in **Commissioner Inland Revenue, Islamabad Vs. M/s Khudadad Heights, Islamabad (I.T.R. No.60 of 2015)** dated 14.11.2023, which was subsequently upheld by the Supreme Court. He submitted that in the said case, the taxpayer had filed the relevant record and established through record that the entries in bank statements did not constitute revenue and/or income of the taxpayer. He submitted that the instant case was distinguishable as the taxpayer had failed to file any record to explain entries in her bank statements, and consequently a demand had been generated in exercise of

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Inland Revenue
Islamabad

authority under section 122(5) read with section 111 of the Income Tax Ordinance, 2001 ("ITO").

4. Learned counsel for the respondent submitted that the principle laid down by this Court in *Khudadad Heights* was that entries in bank statements could not be treated as definite information for purposes of section 122(5) of the ITO, in view of the law laid down by the Supreme Court in *M/s Central Insurance Co. and others Vs. The Central Board of Revenue, Islamabad and others* (1993 SCMR 1232), *Inspecting Assistant Commissioner and Chairman, Panel 20 Companies Vs. Pakistan Herald Ltd.* (1997 SCMR 1256) and *Commissioner Inland Revenue, RTO, Rawalpindi Vs. M/s Khan CNG Filling Station, Rawalpindi* (2017 SCMR 1414). He submitted that the principle was fully attracted in the instant matter as well. He further submitted that it had been held by the Supreme Court in *Commissioner Inland Revenue, Lahore Vs. M/s Millat Tractors Ltd., Lahore and others* (2024 SCMR 709) that in order for information to acquire the character of definite information for purposes of section 122(5) of the ITO, where income was being reassessed in exercise of authority under section 111 of the ITO, it was essential to issue a notice and conclude proceedings for purposes of section 111 of the ITO, prior to issuance of a notice in terms of section 122(5) of the ITO.
5. We agree with the arguments of the learned counsel for the respondent taxpayer. It was held by the Supreme Court in *Millat Tractors* that, "even where a notice under section 111 of the Ordinance, is issued simultaneously with a notice to amend

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an assessment under section 122(9) of the Ordinance, no proceedings can be undertaken under the latter until the proceedings under section 111 are finalized and result in an opinion against the taxpayer." It was further clarified that even where one notice is issued under section 122(9) of the Ordinance which encompasses the grounds of both section 111 and section 122(5) of the ITO, the proceedings under section 111 of the ITO are to take precedence and, "it is only after the opinion is given by the Commissioner under section 111(1) that the proceedings under section 122(5) can be formally taken up and proceeded with."

6. In the instant matter, it is not in contention that while a notice in terms of section 111 of the ITO was issued. The proceedings for purposes of section 111 of the ITO never culminated in the form of an opinion rendered by the Commissioner. And without concluding proceedings in terms of section 111 of the ITO, a demand in exercise of authority under section 122(5) of the ITO was generated, which fell foul of the law laid down by the Supreme Court in **Millat Tractors**.

7. As the question framed for our consideration has already been adjudicated by the Supreme Court in **Millat Tractors**, we decide this reference accordingly in favour of the taxpayer and against the tax department.

8. A copy of this judgment is directed to be sent to the Registrar of the Tribunal under the seal of this Court.


(SAMAN RAFAT IMTIAZ)
JUDGE


(BABAR SATTAR)
JUDGE

Application No. 2978
Date of Presentation of Application 27/01/26
Date of Deposit of Fee 27/01/26

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