

ORDER SHEET

**IN THE LAHORE HIGH COURT,
MULTAN BENCH, MULTAN
JUDICIAL DEPARTMENT**

ITR No. 04 of 2021

Commissioner Inland Revenue,
Multan Zone, Regional Tax Office,
Multan.

Vs.

Khalil Ahmad Prop. M/s.
Shangrilla Bakers and General
Store, Khanewal.

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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22.05.2024.	Malik Muhammad Shahzad Awan, Advocate / Legal Advisor for applicant-department. M/s. Muhammad Imran Ghazi and Sheikh Muhammad Irfan Ayub, Advocates for respondent.
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Through instant Reference Application under Section 133 of the Income Tax Ordinance, 2001 (“Ordinance of 2001”), the following questions of law, asserted to have arisen out of impugned order dated 14.09.2021, passed by learned Appellate Tribunal Inland Revenue, Multan Bench, Multan (“Appellate Tribunal”), have been pressed and argued for our opinion:-

1. “Whether the learned Appellate Tribunal Inland Revenue was justified to hold that failure on the part of the taxpayer to furnish complete record is not liable to be proceeded under section 121(1)(d)?
2. Whether the proceedings under Section 111 and Section 121(1)(d) are not independent from each other and proceedings u/s 111 shall not stand hold if the order u/s 121(1)(d) has been quashed?”
3. Whether the learned Appellate Tribunal Inland Revenue was justified to hold that un-explained house hold expenses incurred by the taxpayer are not liable to be added in the taxable income under Section 111(1)(c)?

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3/1/24
EXAMINER
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2. Learned counsel for applicant-department, at the very outset, was confronted with the findings of facts rendered by learned Appellate Tribunal that respondent submitted requisite information / documents and record before the assessing officer but despite that provision of section 121(1)(d) of the

Ordinance was invoked which was absolutely illegal; and that the assessing officer has failed to refer to any expenses which the respondent incurred to obtain some valuable articles and / or to show any expenditures made with unexplained amount, thus addition of household expenses was against the spirit of Section 111(1)(c) of the Ordinance. In response, despite effort, learned Legal Advisor could not rebut that these findings are of facts.

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OF QANUN-I-SHARAHAT ORDER 1984
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3. Since no question of law is arising out of the impugned findings and the decision by learned Appellate Tribunal is based on findings of facts, therefore, while following the dictum of law laid down in Messrs F.M.Y. Industries Ltd. v. Deputy Commissioner Income Tax (2014 SCMR 907), Commissioner Inland Revenue, Zone-I v. Messrs Industrial Chemicals (Pvt.) Ltd. (2017 PTD 756), Commissioner of Income Tax v. Ghee Corporation of Pakistan (Pvt.) Ltd. (2017 PTD 1167), Commissioner Inland Revenue v. Messrs Adeel Brothers (2017 PTD 1579) and Commissioner Inland Revenue, Zone-II v. Al-Hamad International Container Terminal (Pvt.) Ltd. (2017 PTD 2212), we decline to exercise advisory jurisdiction.

This Reference Application is decided against applicant-department.

4. Office shall send a copy of this order under seal of the Court to the Appellate Tribunal as per Section 133(5) of the Income Tax Ordinance, 2001.


(Raheel Kamran)
Judge


(Muhammad Sajid Mehmood Sethi)
Judge

Application No.
Date of presentation of Application 22/05/24
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