

ORDER SHEET

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

Case No. I.T.R No.83/2023

Commissioner Inland Revenue Vs M/s Suncrop Pesticides

S.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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03.09.2024 Mr. Muhammad Suleman Bhatti, Advocate for the applicant.
Mr. Muhammad Imran Ghazi, Advocate for respondent.

This is a reference under Section 133 of the Income Tax Ordinance, 2001 (Ordinance).

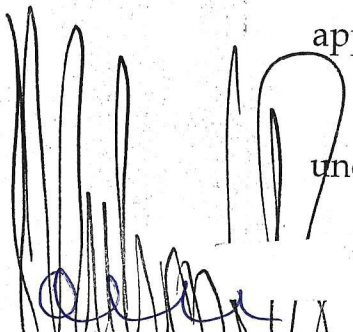
2. Various questions of law have been urged to arise out of the impugned order passed by the Appellate Tribunal Inland Revenue but we have noticed that both the forums below, that is, Appellate Tribunal Inland Revenue and CIR (A) have returned concurrent findings on the various issues which arose out of the show cause notice served on the respondent and have been adequately answered to rebut the allegations contained in the show cause notice. Most of the issues have been decided on the touchstone of factual inquiry such as the addition of bank credit entries under Section 111(1)(d) and it has rightly been held that the credit entries in the bank account constitute various types of entries and all of these entries could not be treated as undisclosed sales. Further that the Assessing Officer was required to discuss the source and nature of each credit entry which was not done. Reliance was placed on the judgment of the superior courts such as *2004 PTCL 1* which was on all fours on the issue decided by the two forums below. Further it was noted that a separate notice under Section 111 of the Ordinance had not been issued and this offended the holding of this Court in *2022 PTD 1411*. The next issue related to the amendment vide order


ATTESTED
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 EXAMINER
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 LAHORE HIGH
 MULTAN BENCH

passed under Section 122(1) of the Ordinance on 28.06.2014. It has rightly been held that the true intention of the law has been ignored by the Assessing Officer while passing the amendment order under Section 122(1). It had been misconstrued that deemed assessment order under Section 120 was still in field and hence further amendment of the deemed assessment order could be undertaken. We tend to agree that once an order under Section 120 has merged in an amended order under Section 122(1), it clearly means that deemed assessment order was no more in field and subsequently issuance of another order under Section 122(1) meant that the second order was illegal which could not be the intention of law. Similarly, the issue relating to WWF has also been properly dealt with and decided by the two forums below concurrently.

3. The questions of law are decided against the applicant and the reference application is dismissed.

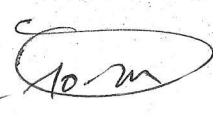
A copy of this order shall be sent to the Tribunal under the Seal of the Court.


 (MUHAMMAD RAZA QURESHI)
 JUDGE


 (SHAHID KARIM)
 JUDGE

8355
 Application No. _____
 Date of presentation _____
 Rafiqat Ali 10/9/24
 Date of Receipt of fee _____
 No. of Words/Pages _____
 Court fee _____
 Stamp fee _____
 Registration fee _____
 Agency fee _____
 Court of appeal _____
 Name of Applicant _____
 Date of presentation _____
 Name of Officer _____
 Date of presentation _____
 Name of Officer _____
 2/10/24

EXAMINER COPY SUPPLY SECTION
 02-10-24
 AUTHORIZED UNDER ARTICLE 87
 OF QANUN-I-SHAHADAAT ORDER 1984
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 SUPREME HIGH COURT
 LAHORE BENCH MULTAN



IN THE LAHORE HIGH COURT, MULTAN BENCH, MULTAN

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I.T.R. No. 83 / 2023

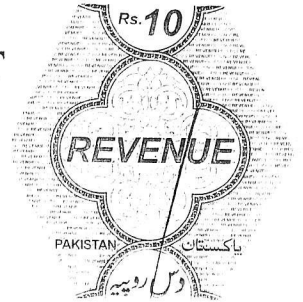
The Commissioner Inland Revenue,
Zone-II, LTO., Multan.

APPELLANT

VERSUS

M/S Suncrop Pesticides,
8-B, Industrial Estate Multan.

FOR PRIVATE USE
02-10-24
Examiner Copy Supply Section
Authorized under Article 87
of Qanun-i-Shahadat Order 1988
Lahore High Court
Multan Bench, Multan



RESPONDENT

INCOME TAX REFERENCE UNDER SECTION 133 OF THE INCOME TAX
ORDINANCE, 2001 AGAINST THE JUDGMENT IN ITA NO. 74/LB/2020
DATED 03-08-2023 PASSED BY THE APPELLATE TRIBUNAL INLAND
REVENUE, MULTAN BENCH, MULTAN TITLED AS THE CIR, MULTAN
ZONE, RTO MULTAN VS. M/S SUNCROP PESTICIDES, INDUSTRIAL
ESTATE MULTAN.

Respectfully Sheweth;

BRIEF FACTS OF THE REFERNECE

Orders Recv-d
04 06-9-23
Sep. 24 days
Oct. 31 "
Nov. 30 "
Dec. 02 "
87 days
imitation 90 "
W/Mie Amie
07/14

1. The taxpayer is an association of persons (AOP) and deals in manufacturing and sale of seeds and pesticides. Amendment in assessment order for tax year 2012 was made u/s 122(4) read with section 122(5) of the Income Tax Ordinance, 2001 (hereinafter referred as "the Ordinance"). Succinct facts for the Tax Year 2012 with regard to Order passed u/s 122 of the Ordinance are that:

- a. Addition to income was made u/s 111(1)(d) read with section 39 of the Ordinance, on account of undisclosed credit entries to the tune of Rs.1,742,767,906/-.
- b. Addition to income was made u/s 111(1)(b) read with section 39 of the Ordinance on account of concealed purchases to the tune of Rs.372,921,589/-. Workers Welfare Fund was also charged at Rs.42,975,370/- on amended income.

51052
02-08-2023
Assistant Registrar (Tax)

(2)

2. Orders u/s 122(4) read with section 122(5) of the Ordinance was passed vide order dated 30-06-2018. Being aggrieved, the taxpayer filed appeal before the Learned Commissioner Appeals, Multan, who vide order dated 22-10-2019 annulled the assessment order.
3. Consequently, the Department filed appeal before the Ld. ATIR who vide Order dated 03-08-2023 in ITA #74/LB/2020 (Tax Year 2012) upheld the order of CIR(A) and rejected departmental appeal.
4. The order of ATIR is sketchy, non-judicious, non-speaking, vague and without any logical or legal reasoning. Hence, the department intends to seek further adjudication by Hon'able High Court as provided u/s 133(1) of the Income Tax Ordinance, 2001.

HENCE THIS REFERENCE

- i. *“Whether in the facts and in the circumstances of the case, learned ATIR was justified to annul original assessment order amended by assessing officer in terms of section 122(1) & (4) of the Income Tax Ordinance 2001, within the statutory period as provided in section 122 (4) of the Income Tax Ordinance 2001 and misapplied the Law enunciated by Honorable High Court in case reported as 2013 PTD 837?*
- ii. *“Whether in the facts and in the circumstances of the case, learned ATIR was justified to delete the additions made u/s 111(1)(b) as unexplained income by ignoring the facts that the taxpayer failed to produce any documentary evidence to assessing officer at the time of assessment proceedings to explain the source of income in spite of issuance of multiple statutory notices for production of record?*
- iii. *Whether in the facts and in the circumstances of the case, learned ATIR was justified to hold that despite adopting procedure provided U/S 122(1) & section 111(1)(b)(d) of the Income Tax Ordinance 2001, order passed by the DCIR is bad in Law?*
- iv. *Whether in the facts and in the circumstances of the case, learned ATIR was justified to annul the assessment order by ignoring the Explanation*

added to the Section 111 which clarified that a separate notice u/s 111 is not required?

- v. "Whether in the facts and in the circumstances of the case, learned ATIR was justified to delete the addition made through amendment of assessment U/S 122(1) read with section 122(5) of Income Tax Ordinance 2001 on the basis of definite information collected through audit by way of credit entries in bank statements which were not reflecting in tax returns?"

P R A Y E R:

It is, humbly prayed that the above mentioned questions of law may kindly be answered by giving authoritative and enlightened view thereof, it is further prayed that if any other question of law arises out of the order of the Tribunal, necessary consequence may also be answered after formulation.

APPELLANT

THROUGH:

Muhammad

Yasir

(Yasir Ali)

Commissioner Inland Revenue
Zone-II, Large Taxpayers Office, Multan

Application No. 8355

Date of presentation 10/9/24

CERTIFICATE

Date of Receipt of fee

Certified as per instructions of the applicant/department no reference has been filed earlier before the Hon'ble Court against the impugned judgment dated 03-08-2023.

Urgent fee 3

Registration & Postage fee 24

Agency fee 2

Court of and of location 24

Date of Receipt of fee 10/9/24

Date of preparation 2/10/24

Date of preparation 2/10/24

Date of preparation 2/10/24

Date of preparation 2/10/24

ADVOCATE

Muhammad

Assistant Registrar for the

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09-10-24
AUTHORIZED SIGNER ARTIFICER
OF CHIEF EXECUTIVE OFFICER