

Form No: HCJD/C-121
JUDGEMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Appeal No. 200 of 2016

Director, Intelligence & Investigation (IR)

Versus

D & SJ/Judge, Special Court (Customs, Taxation & Anti-Smuggling), etc

Date of decision. 02.12.2019

Appellant by. Mr. Riaz Hussain Azam Bopara, Advocate.

Respondent No.2 by. Mr. Adil Aziz Qazi, Advocate.

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Aamer Farooq J : This appeal calls in question judgement dated 15.11.2016, passed by Judge, Special Court (Customs, Taxation & Anti-Smuggling), Islamabad.

2. The facts of the case are that a criminal complaint was filed by the complainant against Respondent No.1, under Section 192 of the Income Tax Ordinance, 2001, for filing false statement and verifications in his tax return for the year 2010, 2011, 2012 and 2013. During the course of proceedings, respondent No.2 filed an application under Section 265-K Cr.P.C., which was allowed and respondent No.2 was discharged.

3. Learned counsel for the appellant, *inter alia*, contended that civil liability operates independent of criminal liability hence respondent No.2 should not have been discharged on the basis of the fact that assessment order has been set-aside by the Commissioner Appeals.

4. Learned counsel for respondent No.1, *inter alia*, contended that since the very basis of filing the criminal complaint

has been set-aside there is no justification for proceeding in the criminal matter.

5. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

6. The application under Section 265-K Cr.P.C. filed by respondent No.1 was allowed on the basis that on the civil side the assessment order which leads to filing of the criminal complaint was set-aside on the ground that there was mis-calculation or mis-assessment on part of the assessing officer. The referred Order stands finalized as no further remedy was sought by the Department. In the said facts and circumstances, the impugned Order does not suffer from any error of law or fact warranting interference.

7. In view of the above, instant appeal is without merit and is accordingly dismissed.

(AAMER FAROOQ)
JUDGE

W. Faraid Usman