

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

T.R. no. 186 of 2011
Commissioner Inland Revenue
versus
M/s Ericsson Pakistan Pvt. Ltd.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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25.05.2022 Ch. Abdul Khaliq Thind, Advocate for the applicant

This tax reference under section 133 of the Income Tax Ordinance, 2001 arises out of the order dated 08.12.2010 passed by the learned Appellate Tribunal Inland Revenue, Islamabad. The questions of law raised in this tax reference are the following:-

- a. Whether the learned ATIR was justified to delete the addition made on account of expense claimed under the head “loss on disposal of fixed assets” without considering the condition of disposal of asset for allowance of expense as dictated by Rule 8(5)(d) of the Third Schedule to the Income Tax Ordinance, 1979?
- b. Whether the written down value of the scrap asset lying in godown can be allowed as an expense without its sale by defeating the requirements of Rule 8(5)(d) of the Third Schedule to the Income Tax Ordinance, 1979?

(emphasis supplied)

2 The Assessing Officer had disallowed the tax payer’s claim of loss on fixed assets (technical equipment written off as scrap) giving the reason that the tax payer had failed to provide the required evidence of sale and he therefore added back the claim of loss on fixed assets to the income for the tax year 2002-2003. On appeal, the Commissioner Inland Revenue (Appeals-I) found the tax payer’s contention that complete

details along with supporting documents were duly provided in the assessment proceedings to be correct. He found that:

“The Assessing Officer made disallowance without considering the supporting documents furnished to the assessing officer in terms of the aforesaid letters. The AR presented the copies of the aforesaid letters along with documents furnished to the Assessing Officer, which were not considered by the Taxation Officer ... In view of the aforesaid facts, since all the documentary proof of sale of fixed assets were furnished to the Taxation Officer and he failed to re-examine and check the details and [sic!] documents provided to him as he has not indicated any defects. Accordingly, the disallowance is hereby deleted.
(emphasis supplied)

3 In appeal, the learned ATIR reached the same conclusion.

4 It is clear therefore that the Assessing Officer did not peruse the record properly, and both the Commissioner Appeals and the learned ATIR on reviewing the relevant record came to the factual conclusion that a sale had in fact occurred, and that the disallowance of the claim of loss on disposal of fixed assets was not warranted. The questions of law framed before us are premised on the assumption of the claim of loss being made without the sale of the fixed assets, which was a factual question answered for the tax payer by the Commissioner Appeals and the learned ATIR on perusing the record.

5 There being no question of law to be answered, this tax reference is returned.

(Babar Sattar)
Judge

(Sardar Ejaz Ishaq Khan)
Judge

Imtiaz