

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa

Mr. Justice Yahya Afridi

Civil Petition No. 4-K of 2021

(Against the order dated 05.11.2020 of the High Court of Sindh at Karachi passed in I.T.R.A. No. 67 of 2015)

Commissioner Inland Revenue, LTO, Karachi. ... Petitioner

Versus

Packages Limited. ... Respondent

For the Petitioner:

Mr. Irfan Mir Halepota, ASC.

Mr. Mazhar Ali B. Chohan, AOR.

Abdul Wahid, Addl. Commissioner

For the Respondent:

Mr. Ejaz Ahmed Zahid, ASC.

Mr. K. A. Wahab, AOR.

Date of Hearing:

13.01.2022.

ORDER

Qazi Faez Isa, J. This petition for leave to appeal assails the order dated 5 November 2020 of the High Court of Sindh at Karachi. On the last date of hearing, we had directed the petitioner to file the show cause notice, through which the whole process was re-initiated and show cause notice dated 23 May 2011 has been filed through CMA No.23-K/2022, which shows that it was issued '*under section 66A read with section 66 of the Income Tax Ordinance, 1979 for the assessment year 97-98...*'. The two questions framed by the Department for consideration of the High Court in the Income Tax Reference were as under:

- i. Whether under the facts and circumstances of the case, the learned Tribunal was justified to hold that order u/s 66-A of the repealed Income Tax Ordinance, 1979, was barred by time limit?
- ii. Whether under the facts and circumstances of the case, the learned Tribunal was justified to decide the appeal against the department in the context of case law cited as 2008 PTD 1316?

2. The Department before the High Court had relied upon section 66-A of the Income Tax Ordinance (and not section 66). Under the said section 66-A, a notice can only be issued within a period of four years by an

Inspecting Additional Commissioner of Income Tax from the date of an order passed by the Deputy Commissioner. Therefore, we enquired when was the order passed by the Deputy Commissioner and were told that it was passed on 16 March 1998 (filed with CMA No. 25-K/2022). The said show cause notice dated 23 May 2011 was issued more than thirteen years after the said order and as such was time-barred as it was well beyond the prescribed period of four years. Reference was then made to a notice dated 12 June 2013. Leaving aside the relevancy of this notice we note that it too was issued after four years. The Department could not have initiated action under the said section 66-A after four years. Therefore, leave to appeal is declined and, consequently, this petition is dismissed with costs in the sum of twenty thousand rupees.

3. We may observe that the Income Tax Department, which is now the Federal Board of Revenue, must act fairly in dealing with taxpayers and to abide by the law governing it. If any benefit accrues to taxpayers under the law, it must not be withheld and the assessee's and its own time and resources should not be needlessly wasted. This frivolous litigation also wasted the time of the Tribunal, the High Court and of this Court; time which would have been better spent in resolving legitimate disputes.

Judge

Judge

Bench-I
Karachi:
13.01.2022

Approved for Reporting
(Amjad)