

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial
Mr. Justice Maqbool Baqar
Mr. Justice Munib Akhtar

CIVIL APPEALS NOs.433-435 OF 2015

(On appeal from the judgment/order dated 15.07.2014
passed by Peshawar High Court, Peshawar in Tax Reference
No.86-88 of 2007)

The Chief Commissioner Inland Revenue,
RTO, Peshawar

... **Appellant(s)**
(in all cases)

VERSUS

M/s Sabrina Tent Services

... **Respondent(s)**
(in all cases)

For the appellant(s) : Mr. Rehmanullah, ASC.
Syed Rifaqat Hussain Shah, AOR.

For the respondent : Mr. Ghulam Shoaib Jally, ASC.

Date of hearing : 09.05.2019

ORDER

UMAR ATA BANDIAL, J. The short question arising for determination in these appeals is whether the appellant had 'definite information' within the meaning of Section 122(8) of the Income Tax Ordinance, 2001 ("**Ordinance**") in order to pass an amended assessment order whereby the information gleaned from the bank account statement of the respondent was made the basis of additional liability to tax for the assessment year 2002-2003, tax year 2003 and tax year 2004.

2. There are two bank accounts which the appellant alleges that the respondent had not disclosed either in full or at all. These accounts were maintained by the respondent at the Bank of

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Khyber and the Standard Chartered Bank. The respondent does not deny that it failed to provide the particulars of the account in the Standard Chartered Bank and therefore, the amended assessment made in respect of the information collected from the account statement of that Bank has not been disputed by the respondent, who has paid the additional tax assessed.

3. With respect to the respondent's bank account in the Bank of Khyber, it is admitted on record that a partial bank statement of the said account pertaining to the period 26.04.2003 untill 30.06.2003 was filed by the respondent, *inter alia*, on the basis of which assessment under Section 62 of the Income Tax Ordinance, 1979 was completed for the assessment year 2002-2003 as well as subsequently for the tax year 2003 under the Ordinance. In respect of these two assessments, the appellant framed an amended assessment under Section 122(1) of the Ordinance on 13.08.2006 claiming that the respondent had failed to provide the entire bank statement for the year and thereby concealed large financial transactions which revealed receipts in excess of those that had been declared.

4. The learned Appellate Tribunal reversed the decisions taken by the Assessing Officer and the learned CITA on the ground that the information with respect to the bank account at Bank of Khyber was already available with the appellant and it was the task of the appellant during the assessment proceedings to have sought further information before completing the assessment. By subsequently changing their opinion in relation to the information provided or on the basis of further information collected in respect

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of the said bank account, the requirements of the law under Section 122(8) of the Ordinance with respect to the essential ingredients of 'definite information' are not met in this case. 'Definite information' does not mean a reanalysis of existing information or an analysis of further information that was previously accessible but had not been taken into account. Reliance in this respect is placed Central Insurance Co. vs. Central Board of Revenue (1993 SCMR 1232), Inspecting Assistant Commissioner vs. Pakistan Herald Ltd. (1997 SCMR 1256) and Income-tax Officer vs. Chappal Builders (1993 PTD 1108). The learned High Court in the impugned judgment 15.07.2014 has agreed with the view taken by the learned Tribunal.

5. We have asked the learned counsel for the appellant repeatedly to show as to how the further information secured by the appellant with respect to the respondent's account details at the Bank of Khyber constitutes 'definite information'. He has referred us to a judgment of this Court reported as Commissioner Inland Revenue Zone-I vs. Khan CNG Filling Station (2017 SCMR 1414). We have perused that judgment, which deals with a formula for analyzing information already provided to the tax authorities for collecting total sales figures of the assessee, who are CNG vendors. The factors taken into account in the formula and the computation of the resulting figure has been considered to be a means of 'definite information.' In the present case, there is no formula being applied nor is information being analyzed. What has been done by the appellant is to collect further information from a

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source that was already available, which they never demanded from the respondent at the relevant time and to use such information to come to a different conclusion. To our minds such an exercise does not amount to receipt of 'definite information' within the meaning of Section 122(8) of the Ordinance.

For the foregoing discussion, we do not find any merit in these appeals as such the same are dismissed. No order as to costs.

Islamabad,
09.05.2019.
Irshad Hussain /"

NOT APPROVED FOR REPORTING.

28/5/19

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