

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Yahya Afridi, CJ  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Miangul Hassan Aurangzeb

**Civil Petition No. 312 of 2025**

*[Against the judgment dated 17.12.2024 of  
the Lahore High Court, Lahore passed in  
STR No.39113/2019]*

*M/s Chaudhary Steel Furnace. ... Petitioner*

**Versus**

*Commissioner Inland Revenue, Sialkot Zone,  
Regional Tax Office, Sialkot. ... Respondent*

For the Petitioner: Mr. Muhammad Ali Raza, ASC.

For the Respondent: Mrs. Kausar Parveen, ASC.  
Dr. Ishtiaq Ahmed Khan,  
Director-General (Law), FBR.

Date of Hearing: 22.05.2025.

**ORDER**

**Muhammad Shafi Siddiqui, J.** For the purposes of our consideration the matter triggered when show cause notice dated 06.06.2012 issued by the Inland Revenue officer, out of which Order-in-Original No.29/2012 dated 31.12.2012 was passed against the petitioner.

2. Aggrieved of it, the petitioner filed an appeal before the Commissioner Inland Revenue, (Appeals), Gujranwala, which was dismissed *vide* Order-in-appeal dated 21.02.2013. The petitioner being aggrieved of the Order-in-Original and Order-in-Appeal preferred an appeal (STA No.401/LB/2013) before the Appellate Tribunal Inland Revenue, Lahore Bench, Lahore (**'the Tribunal'**) and *vide* order dated 28.08.2013, the appeal was accepted and

decided in favour of the petitioner and the orders below were set aside and FIR registered against the petitioner was ordered to be quashed.

3. The respondent thereafter being aggrieved of the order of the Tribunal filed Sales Tax Reference No. 15/2014 before the Lahore High Court, which was partially allowed and decided alongwith another connected reference raising same questions of law. The references were decided *vide* order dated 11.05.2017 in favour of the respondent-department.

4. It is at this point the learned counsel attempted to make a point that two questions of law in favour of respondent-department were answered, whereas, the High Court declined to answer the third question of law on the basis of the order of the Tribunal as it (Tribunal) made a reference to Clause 42(b) of STGO No.3/2004, but did not give specific findings as to violation of said provisions. This being the bone of contention, the petitioner preferred CPLA No.3717/2017 against the aforesaid order passed in reference jurisdiction, however, it was withdrawn *vide* order dated 14.01.2020, whereas, he separately for a parallel recourse filed an application (M.A (R) No.254/LB/2018) before the Tribunal in same disposed of STA No.401/LB/2013 for fixation/rectification of the previous order of the Tribunal dated 28.08.2013 to the extent of question of law and fact regarding failure of the respondent-department in determining the liability under normal tax regime, which claimed to have been overlooked by the Tribunal in the first round of litigation. Being influenced by the contention so raised, the Tribunal on such application, which is primarily for the fixation of the said appeal, modified its order *vide* order dated 12.10.2018 in favour of the petitioner and against the respondent-department and both order-in-original and first appellate order stand vacated/cancelled, though it was taken to its logical end up to this Court. As against the order on the said Miscellaneous

application for fixation of the appeal, the respondent-department preferred a reference being STR No.39113/2019 on the ground that rectification jurisdiction (as explained) could not have been exercised by the Tribunal. The Sales Tax Reference was accepted *vide* order dated 17.12.2024 by a Division Bench of the Lahore High Court, Lahore deciding the question of law in favour of the respondent-department against which the instant CPLA was filed by the petitioner.

5. The first and primary contention of the counsel for the petitioner was that the order of the High Court passed in STR No.11/2014 dated 11.05.2017 wherein the court declined to answer third question, was in fact a remand order, which had saddled the Tribunal with a responsibility to decide the question which remained unanswered in the first round of litigation. The second contention was that the Tribunal was justified in considering the application for fixation of appeal, as being application for rectification of the order.

6. We have heard the learned counsel and perused the material available on record. We do not find any ambiguity in the order of the Division Bench of the High Court passed in STR No.11/2014 as it is not a remand order nor did it revive the appeal decided by the Tribunal in the first round of litigation. One of the questions remained unanswered by Tribunal which consequently was not answered by the court exercising reference jurisdiction. Neither any request was made in a reference filed by the respondent-department nor at the time of withdrawal of the CPLA No.3717/2017 before this Court. The petitioner on its own moved an application for fixation of the appeal which appeal was never in existence, as it was disposed of *vide* order dated 28.05.2018 in its totality. When the application for fixation of appeal was filed we failed to understand that there was no *lis* pending and nothing could

have been fixed for any leftover issue and hence the only way the Tribunal conceived it is by way of rectification application. Even the newly inserted (June, 2013) section 57 of the Sales Tax Act, 1990 ('the Act') has its limitation in terms of the rectification sought. It is to be noticed that its retrospective effect was not questioned before the Tribunal and hence we would not comment. Indeed, a rectification of mistake could be amended/rectified by an order passed by the Tribunal which mistake is apparent on the face of the record, however, it does not enlarge the scope of the Tribunal to render a complete and altogether different decision, independent of the earlier "view" as expressed. For the sake of convenience, section 57 of the Act is reproduced as under:

***'[57. Rectification of Mistake.-***

*(1) The officer of Inland Revenue, Commissioner, the Commissioner (Appeals) or the Appellate Tribunal may, by an order in writing, amend any order passed by him to rectify any mistake apparent from the record on his or its own motion or any mistake brought to his or its notice by a taxpayer or, in the case of the Commissioner (Appeals) or the Appellate Tribunal, the Commissioner.*

*(2) No order under sub-section (1) which has the effect of increasing an assessment, reducing a refund or otherwise applying adversely to the taxpayer shall be made unless the taxpayer has been given a reasonable opportunity of being heard.*

*(3) Where a mistake apparent on the record is brought to the notice of the officer of Inland Revenue, Commissioner or Commissioner (Appeals), as the case may be, and no order has been made under sub- section (1), before the expiration of the financial year next following the date on which the mistake was brought to their notice, the mistake shall be treated as rectified and all the provisions of this Act shall have effect accordingly.*

*(4) No order under sub-section (1) shall be made after five years from the date of the order sought to be rectified.]'*

Although it was an application for fixation of the appeal, but essentially it seeks further adjudication in the shape of rectification of an unanswered question which is not even remotely within the contours of section 57 of the

Act. The Tribunal acted as an appellate forum of its own order, which is not sustainable in law.<sup>1</sup>

7. In view of the foregoing discussion, we do not find any error in the order passed by the High Court in reference jurisdiction and decline to grant leave to appeal. Consequently, this petition is dismissed.

Chief Justice

Judge

Judge

Islamabad:  
22.05.2025  
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<sup>1</sup> Commissioner of Income Tax, Karachi v. Abdul Ghani (2007 PTD 967).