

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa

Mr. Justice Muhammad Ali Mazhar

Civil Petition No. 1148-L of 2021

(Against the order dated 14.04.2021 of the Lahore High Court, Lahore passed in I.T.R.No. 24782 of 2021)

Commissioner Inland Revenue, Lahore.

... *Petitioner*

Versus

Asif Kamal.

... Respondent

For the Petitioner:

Ch. Muhammad Shakeel, ASC.
a/w Mr. Naveed Ahmed,
Additional Commissioner, FBR.

For the Respondent:

Not represented.

Date of Hearing:

16.03.2022.

ORDER

Qazi Faez Isa, J. The learned Ch. Muhammad Shakeel, represents the petitioner, who is the Commissioner Inland Revenue, Lahore and is assisted by Mr. Naveed Ahmed, Additional Commissioner Inland Revenue. The learned counsel submits that this case arises out of a show cause notice issued by the Deputy Commissioner Inland Revenue on 19 May 2018, pursuant to the audit report dated 4 April 2018. It is stated that as per the audit report the respondent was required to produce evidence in support of the exempt income claimed in his tax return for the tax year 2012, but failed to do so. Regretfully the copies of the said notice, the audit report, the response of the respondent and his tax return have not been filed. The learned counsel proceeded to refer to the order of the Deputy Commissioner Inland Revenue which states that, '*... you have failed to submit any reply to the audit report u/s 177 (6) dated 04.04.2018*' (last line on page 31 of the paper-book). Therefore, we enquired whether the said audit report was shared with the respondent and if he was asked to respond thereto but neither the learned counsel nor the representative of the petitioner were able to answer our queries. The question also arose

whether the show cause notice, in respect of the tax return for the tax year 2012, was sent within the prescribed period and the answer to this too was not provided, nor could it be ascertained in the absence of the said documents.

2. The Appellate Tribunal Inland Revenue, Lahore Bench (**'the Tribunal'**) had decided the appeal in favour of the respondent and against its decision an Income Tax Reference was filed by the petitioner before the High Court. The impugned order of the High Court states that the same matter had already been decided by a Division Bench of the Lahore High Court, Multan Bench in the case of *Commissioner Inland Revenue v Falah ud Din Qureshi* (2021 PTD 192). Therefore, we enquired whether the said referred to decision was challenged before this Court, and if so, what was its result. But this query too was not answered. Accordingly, we had to enquire from the Court's Office whether the said decision had been challenged, and learnt that Civil Petition No. 159 of 2021 was filed, *Commissioner Inland Revenue, Multan Zone, RTO, Multan versus Falah ud Din Qureshi*, but the same was dismissed on 12 October 2021, because it was belatedly filed. Court time was unnecessarily wasted in our having to make inquiries.

3. We have considered the impugned order and that of the Tribunal, and have not been persuaded that either of them is in any manner illegal or which otherwise may require interference by this Court. Therefore, leave to appeal is declined and, consequently, this petition is dismissed.

4. In an earlier case we had directed that when revenue cases are fixed in Court a senior officer from the department should be in attendance alongwith the relevant file/information to attend to any query that may arise during the course of hearing. Though the Additional Commissioner Inland Revenue is in attendance but he was not in a position to attend to any of the queries we put to him. We once again express our dismay in the manner the Federal Board of Revenue and its Inland Revenue department is being run with regard to Court proceedings. This Court has endeavoured to take up revenue matters at the earliest but is not receiving the requisite assistance.

5. Copy of this order be sent to the Chairman and to all Members of the Federal Board of Revenue and also to the Secretary, Ministry of Finance, Government of Pakistan. We expect the Federal Board of Revenue/Inland Revenue will attend to revenue cases with the seriousness that they deserve and relevant documents are filed, and it is ensured that requisite assistance is rendered when cases are fixed in Court. Copy of this order be also sent to the respondent.

Judge

Judge

Islamabad:
16.03.2022

Approved for Reporting
(M. Tauseef)