

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

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

Civil Appeals No. 854 to 862 of 2011

[On appeal from the orders dated 15.04.2011 and 04.05.2011 of the High Court of Sindh, Karachi passed in I.T.R.A. Nos.158 to 160, 296, 297, 298, 227, 228 and 229 /2010]

Commissioner Inland Revenue, Karachi
[In all cases]

... **Appellant(s)**

Versus

M/s EFU General Insurance Limited, Karachi.
[In CAs.854 to 856/11]

M/s EFU Life Assurance Limited, Karachi.
[In CAs.857 to 859/11]

M/s Century Insurance Company Limited, Karachi.
[In CAs.860 to 862/11]

... **Respondent(s)**

AND

Civil Appeals No.1666 and 1667 of 2013

[On appeal from the order dated 02.05.2013 of the High Court of Sindh, Karachi passed in I.T.R.A. Nos.105 and 110/2012]

Commissioner Inland Revenue, Karachi
[In both cases]

... **Appellant(s)**

Versus

M/s Central Insurance Company Limited, Karachi.
[In both cases]

... **Respondent(s)**

AND

Civil Appeals No. 48 to 50 of 2014

[On appeal from the order dated 05.09.2013 of the High Court of Sindh, Karachi passed in I.T.R.A.Nos.193 to 195/2012]

Commissioner Inland Revenue, Karachi
[In all cases]

... **Appellant(s)**

Versus

M/s Shaheen Insurance Company Limited, Karachi.
[In all cases]

... **Respondent(s)**

AND

Civil Appeals No. 788 and 789 of 2015

[On appeal from the order dated 02.12.2014 of the High Court of Sindh, Karachi passed in I.T.R.A.Nos.78 and 79/2012]

Commissioner Inland Revenue, Karachi.

[In both cases]

Versus

M/s Habib Insurance Company Limited, Karachi.

[In both cases]

... **Appellant(s)**

... **Respondent(s)**

AND

Civil Appeals No. 938 to 940 of 2017

[On appeal from the order dated 30.08.2016 of the High Court of Sindh, Karachi passed in I.T.R.A.Nos.94 and 192/2012 and I.T.R.A No.42/2013]

Commissioner Inland Revenue, Karachi

[In all cases]

Versus

M/s State Life Insurance Corporation Ltd., Karachi.

[In CA.938/17]

... **Appellant(s)**

M/s Allianz EFU Health Insurance Limited, Karachi.

[In CAs.939 and 940/17]

... **Respondent(s)**

AND

C.M.As.No.8167 and 8168 of 2016

[Against setting aside ex-parte order]

AND

Civil Appeal No. 484 of 2018

[On appeal from the judgment 18.04.2017 of the High Court of Sindh, Karachi passed in ITRA No.06/2013]

The Commissioner Inland Revenue, Companies III, Karachi (then) presently The Commissioner (IR) Zone-III, LTU, PRC, Karachi.

... **Appellant(s)**

Versus

M/s IGI Insurance Company Limited, Karachi.

... **Respondent(s)**

For the Appellant(s):

[In CAs.854 to 859/11 and CA.484/18]

Dr. Shah Nawaz, ASC.

[at Islamabad]

Mr. Muhammad Bilal Bhatti, ASC.

[through video-link from Karachi]

*[In CAs.860 to 862/11,
1666 and 1667/13 and 788
-789/15]*

Mr. Irfan Mir Halepota, ASC.
[through video-link from Karachi]

*[In CAs.48-50/2014
& CAs.938-940/2017:*

Mr. Muhammad Siddique Mirza, ASC.
[through video-link from Karachi]

For the Applicant(s):
[In CMAs.8167-8168/16]

Syed Naveed Amjad Andrabi, ASC.

For Department / FBR:

Dr. Ishtiaq Ahmed Khan,
Director-General (Law), FBR.
[at Islamabad]

Mr. Masood Ahmed Gorski,
Additional Commissioner, Inland Revenue.
[through video-link from Karachi]

For the Respondent(s):
*[In C.As.854 to 862/11,
1666 to 1667/13, 788-789/15,
and CAs.938 & 940/17]*

Syed Naveed Amjad Andrabi, ASC.

[In C.As.48-50/2014]

Mrs. Abida Parveen Channar, AOR.
[through video-link from Karachi]

[In C.A. 939/17]

Mr. Muhammad Idrees, ASC.

[In CA 484/18]

Mr. M. Makhdoom Ali Khan, Sr. ASC.
assisted by Mr. Saad Mumtaz Hashmi, ASC.
Mr. Yawar Mukhtar, Advocate.
Ms. Naila Irshad, Advocate.
Mr. Abdullah Sajid, Advocate.

Dates of Hearing:

1 to 4 and 10 June, 2026.

JUDGMENT

Muhammad Shafi Siddiqui, J. These 20 Civil Appeals, with the leave of the Court, have arisen out of certain judgments and orders rendered on different dates by the High Court of Sindh, Karachi, whereby several Income Tax Reference Applications filed by the appellant (Commissioner Inland Revenue, Karachi) were dismissed.

2. Although facts of these appeals are distinct, but since question of law involved therein is common; therefore, the same are being decided through this judgment.

3. These civil appeals have been heard together and were disposed of by short orders dated 16.06.2026. Before us there are two main impugned judgments of the High Court: Firstly, the impugned judgment dated 15.04.2011, which is a short order followed by detailed reasons dated 06.06.2011, had been challenged before this Court in Civil Appeals No.854 to 856 of 2011 (hereinafter referred to as the '**former judgment**'). The former judgment had been followed by the High Court in a number of Income Tax Reference Applications and Civil Appeals No.857 to 862/2011, Civil Appeals No.1666 and 1667/2013, Civil Appeals No.48 to 50/2014, Civil Appeals No.788 and 789/2015 and Civil Appeals No.938 to 940/2017 arise out therefrom. The second impugned judgment dated 18.04.2017 had its own reasoning and challenged before this Court in Civil Appeal No.484/2018 (hereinafter referred to as the '**later judgment**').

4. We have heard the learned counsel for the parties and perused the material available on record.

5. The former judgment was decided on a narrower ground, whereas, the later judgment examined such questions from different comprehensions and, notwithstanding certain overlapping observations concerning section 67 read with section 109 of the Ordinance, concluded that the transactions under consideration did not constitute tax avoidance. The earlier bunch of appeals arising out of the former judgment of the High Court raised the following questions, as framed in the memo of reference, which, for convenience, are reproduced below:

- i. Whether under the facts and circumstances of the case, the learned Tribunal was justified in upholding the order of the Commissioner (Appeals) annulling the order under section 122(5A) without giving its own reasons, as required under section 24A of the General Clauses Act, 1897?
- ii. Whether under the facts and circumstances of the case, the learned Tribunal was justified in upholding the order of the Commissioner (Appeals) relying upon the concept of single basket income to annul the order, when insertion of Rule 5A in the Fourth Schedule has itself done away with the concept of single basket income, by extending exemption to capital gains from sale of share?
- iii. Whether under the facts and circumstances of the case, the learned Tribunal was justified in upholding the order of the Commissioner (Appeals) which has relied upon the erroneous concept that the Fourth Schedule does not sanction application of section 67 of the Income Tax Ordinance, 2001; whereas section 99 of the Ordinance is not a non-obstante clause?
- iv. Whether, on the facts and circumstances of the case, the learned Tribunal was justified in upholding the order of the Commissioner (Appeals) annulling the order under section 122(5A), without considering the provisions of section 67 read with sections 7 and 8 of the Ordinance?

Whereas, the later judgment also considered three similar questions which, for convenience, are reproduced hereunder:

- i. Whether, in the facts and circumstances of the case, the learned Tribunal was justified in law in holding that the impugned share transactions with associated companies, claimed as giving rise to an exempt capital gain of Rs. 7,081,205,000/- under Rule 6A of the Fourth Schedule to the Income Tax Ordinance, 2001 ("the 2001 Ordinance"), did not constitute, for the tax year 2007, a tax avoidance scheme under section 109 read with Rule 5(b) of the said Fourth Schedule?
- ii. Whether, in the facts and circumstances of the case, the learned Tribunal was correct in holding that, for the tax year 2007, the taxpayer had correctly computed its income in accordance with the dictates of the Fourth Schedule to the 2001 Ordinance, read with the principles laid down by this Court in Central Insurance Co. and others v. Central Board of Revenue and others (1993 SCMR 1232)?
- iii. Whether, in the facts and circumstances of the case, the learned Tribunal was justified in law in holding that the Fourth Schedule to the 2001 Ordinance, being a special provision, overrode section 67 of the Ordinance and, consequently, section 67 was not applicable in the case of an insurance business?

6. On an examination of the *ratio decidendi* of the two judgments, the questions arising in the present appeals can be narrowed down to the following two questions for our consideration:

- (a) Whether, in the facts and circumstances of the case, the High Court was justified in law in holding that the impugned share transactions with the associated companies, in respect of which a claim of exempt capital gain was made under Rule 6A of the Fourth Schedule to the Income Tax Ordinance, 2001, did not constitute, for the relevant tax year, i.e. 2007, a tax avoidance scheme within the meaning of section 109 read with Rule 5(b) of the Fourth Schedule to the Ordinance; and

- (b) Whether, in the facts and circumstances of the case, the High Court was justified in law in holding that the Fourth Schedule to the Income Tax Ordinance, 2001, being a special provision, overrode section 67 of the Ordinance, which was, therefore, not applicable in a case of insurance business.

7. As noted above, the later judgment of the Division Bench of the Sindh High Court considered the effect of section 109 in the context of the absence of a non-obstante clause while applying section 99, hence treated it as a brand-new tool to be given a *de novo* effect. Notwithstanding the above, a common thread running through both judgments is that the impugned transactions were not found to constitute a tax avoidance scheme. We would, therefore, first consider whether, in the facts and circumstances of the case, the impugned share transactions with the associated companies constituted tax avoidance within the meaning of section 109, which enables the Department to re-characterize a transaction, read with Rule 5(b) of the Fourth Schedule to the Ordinance, or otherwise, notwithstanding section 99, which constitutes a special provision governing the computation of income from an insurance business.

8. It would be convenient, at this stage, to set out the relevant facts in order to appreciate the nature of the alleged sale and purchase of the subject shares.

9. The insurance companies submitted their accounts for the relevant tax year to the Securities and Exchange Commission of Pakistan in accordance with the Fourth Schedule read with section 99 of the Ordinance. It is disclosed that, during the subject tax year, the insurance companies sold and, shortly thereafter, re-purchased shares held by them. The transactions were duly recorded in their accounts, and the returns were accordingly filed for the respective tax year, which, under the law, resulted in deemed assessment. The Taxation Officer, however, considered the assessments so framed to be unlawful and erroneous and initiated proceedings under section

122(9) of the Ordinance for amendment of the deemed assessments under section 122(5A) thereof. The Taxation Officer invoked section 109 of the Ordinance to “re-characterise” certain sale and re-purchase transactions of shares, observing that the resulting gain was not “capital gain” in the real sense and, therefore, was not exempt under Rule 6A of the Fourth Schedule to the Ordinance. Instead, he treated the transactions as constituting appreciation of investment within the meaning of Rule 5(b) of the Fourth Schedule and subjected the resulting amount to tax. The matters thereafter came before the Commissioner Inland Revenue (Appeals) and the Appellate Tribunal Inland Revenue (ATIR).

10. The ATIR took due note of the fact that the value of the shares had to be stated at the cost price in view of the mandatory requirement of law. It further noted that, although the market value of the shares had increased considerably, such appreciation could not be reflected in the accounts owing to the applicable statutory framework. The Tribunal, therefore, observed as follows:

“53. ... In the instant case, the increase in market value of the investment held for sale cannot be credited to reserve due to statutory requirement of SECP (Insurance) Rules, 2000. This position has not been disputed by the department in the appellant’s case ... In other words, revaluation of such investment was not possible under the statutory framework for insurance companies and accordingly it cannot be substantiated that the appellant in order to avoid tax opted for realisation of capital gains by selling the securities instead of revaluing such securities.”

The insurance companies contested the reference applications on two principal grounds:

- i. Section 99 and the Fourth Schedule to the Ordinance governed the computation of the profits and gains of an insurance business exclusively. Section 109 of the Ordinance was not applicable to an insurance business, as it had not been specifically incorporated into the Fourth Schedule to the Ordinance.
- ii. The main purpose of the transactions was to capture the increased market value of the shares in the accounts of the respondent insurance companies and not to avoid tax. The genuineness of the transactions, as noted by the ATIR, was not even disputed by the Revenue. The transactions were genuine and, therefore, section 109 was not applicable to them.

11. Their defence was that section 99 and the Fourth Schedule to the Ordinance governed the computation of profits and gains of an insurance business exclusively. Section 109 of the Ordinance did not apply to an insurance business, as it had not been specifically incorporated into the Fourth Schedule to the Ordinance and, secondly, that the main purpose of the transaction was to capture the increased market value of the shares in the accounts of the respondent-insurance company, rather than to avoid tax.

12. The veracity of the transaction, as noted by the ATIR, was not even disputed by the revenue. It was considered a genuine transaction, and it was observed that re-characterisation was not needed. The insurance companies before the High Court heavily relied upon earlier judgments in the case of *Commissioner (Legal) Inland Revenue v. EFU General Insurance Limited*¹, *Commissioner of Income Tax, Central, Karachi v. Messrs Alpha Insurance Company Limited*², *Commissioner of Income Tax, Karachi v. Messrs Phoenix Assurance Company Limited*³ and *E.F.U General Insurance Company Limited v. Federation of Pakistan*⁴. In the later impugned judgment of the Sindh High Court, however, a view was taken that so far as section 109 is concerned, it was a newly introduced provision and the *ratio decidendi* of these (4) cited judgments would not apply where section 109 was applied by the revenue.

13. Keeping this distinction in mind, we proceed further. The insurance companies classified the shares held by them into different categories, one of which was the category of “shares available for sale”. The other categories included “shares held to maturity” and “shares held for trading”.

¹ Commissioner (Legal) Inland Revenue v. EFU General Insurance Limited (2011 PTD 2042)

² Commissioner of Income Tax, Central, Karachi v. Messrs Alpha Insurance Company Limited (PLD 1981 Supreme Court 293)

³ Commissioner of Income Tax, Karachi v. Messrs Phoenix Assurance Company Limited (1991 PTD 1028)

⁴ E.F.U General Insurance Company Limited v. Federation of Pakistan (PLD 1997 Supreme Court 700)

14. We were informed that the insurance companies held a substantial number of shares in associated listed companies, the market value of which had increased considerably over the years. However, such increased value could not be reflected in the accounts of the insurance companies owing to certain legal requirements.

15. The Securities and Exchange Commission of Pakistan (Insurance) Rules, 2002 required that the shares characterised as “available for sale” be stated in the books of the insurance company at the lower of cost or market value. Rule 13(a) of the said Rules reads as under:

“ ... available for sale investments shall be stated at the lower of cost or market value ... ”

The requirement was binding upon all insurance companies. Thus, where the market value of shares classified as “available for sale” exceeded their cost price, such shares continued to be stated at cost, and the increase in market value could not be recognised as an appreciation in the accounts.

In the process of capturing the higher market value of these shares in the accounts, attempts at sale and repurchase were made, which are under consideration.

16. It was indeed a business transaction, and we are not concerned to adjudge the advantages or disadvantages associated with it; rather, what is important for us is to ascertain the intent behind the transaction. The companies, under the law, sought to capture the long-suppressed market value of these shares in their books, which had otherwise remained stagnant. The disclosed value could not have been changed on account of the applicable statutory requirement, and the only favourable way found to reflect such increased value in the accounts was through the subject transactions. The transactions improved the financial position and liquidity

of the companies by enabling the increased market value of the shares to be reflected in their accounts. The sale transactions, which fetched the prevailing market value, were thus several times higher than the initial cost of the shares, and the difference between the sale proceeds and the initial cost was consequently realised as capital gain on each transaction of sale. It was this financial gain which was treated as capital gain, in respect of which exemption was claimed under Rule 6A of the Fourth Schedule to the Ordinance by the companies. Rule 6A was inserted through the Finance Act, 2005 and omitted by the Finance Act, 2017, and the relevant tax years for the purposes of these appeals fall within the period during which the said Rule remained in force. Rule 6A of the Fourth Schedule to the Ordinance is reproduced as under:

“6A. Exemption of capital gains from sale of shares.- In computing income under this Schedule, there shall not be included “capital gains, being income from the sale of modaraba certificates or any instrument of redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984), listed on any stock exchange in Pakistan or shares of a public company (as defined in sub-section (47) of section 2) and the Pakistan Telecommunications Corporation vouchers issued by the Government of Pakistan, derived up to tax year ending on the thirtieth day of June, 2010.”

17. The purpose of capturing a higher market value of the shares was thus achieved, and the books of account were correspondingly improved, while the value of the shares held by the company increased substantially, thereby enhancing its liquidity. It is this increase in value which was sought to be capitalised upon by the insurance companies by claiming exemption under Rule 6A. How and in what manner such transaction could be regarded as an appreciation of investment, in the absence of any corresponding credit in the accounts, remains questionable; hence, the applicability of Rule 5(b) is also questionable.

18. The Taxation Officer revised the deemed assessments by treating the transactions as a tax avoidance scheme and re-characterising them under

section 109 of the Ordinance, 2001. The capital gains arising from the transactions were consequently re-characterised as “*appreciation of investment*” under Rule 5 of the Fourth Schedule. The Taxation Officer was of the view that such “*appreciation of investment*” fell within the scope of Rule 5 of the Fourth Schedule and did not constitute “capital gain” exempt under Rule 6A. Consequently, upon such re-characterisation, the respondent was held liable to income tax, the benefit of the capital gains exemption was denied, and a demand for payment of tax was raised.

19. In order to appreciate the effect of Rule 6A, it would be appropriate to first consider what is clearly stated therein and apparent. To understand its effect the landmark observation of Rowlatt, J. in *Cape Brandy Syndicate v. Inland Revenue Commissioners* [1921] 1 KB 64 is very helpful which has consistently been recognised and applied by this Court in the following terms:

“... in a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax there is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.”

20. It is now settled that a taxing statute is to be construed according to the language employed therein, and that where two interpretations of a charging provision are reasonably possible, the interpretation favourable to the taxpayer is to be preferred.

21. It is clear from the accounts submitted by the respondent-insurance company that the transaction could be viewed in two possible ways. One view was, as noted above, that the taxpayer had sought to capture the market value of its shares available for sale. The main purpose was to improve its balance sheet, enhance its liquidity and capture the increased value of the shares in its accounts. Another view, though not considered by the forums

below, could be that the respondent had entered into the transactions solely to avoid tax. The former view favoured the taxpayer, whereas the latter favoured the Revenue. The factual aspects of intent of transaction were found in favour of the Companies by the Tribunal and maintained by the High Court in reference jurisdiction. If the principles enunciated in the cases of *Cape Brandy*⁵ and *Hashwani*⁶ is applied the former interpretation, being favourable to the taxpayer, would prevail over the latter and, accordingly, would have to be given effect to.

22. It was in this context that the Division Bench of the Sindh High Court, in the subsequent judgment, went on to observe the apparent intent underlying section 109, which, notwithstanding its applicability (since not challenged), could not be divorced from its object. The object of section 109, as discerned by the High Court, was to ascertain the main purpose of the transaction. The main purpose of the transaction had to be avoidance of tax in order for the transaction to be re-characterised under section 109.

23. While the respondent-insurance companies did obtain a tax benefit from the transactions, their main purpose was not tax avoidance. The main purpose was to record the increased value of the shares in their books of account, which, in the circumstances, cannot be construed as a purpose of tax avoidance. Indeed, the primary concern of the insurance companies was to capture the market value of the shares and incorporate it in their books of account and, while this was apparently the main intent, it cannot, by itself, be construed as tax avoidance.

24. Rule 5(b) of the Fourth Schedule, therefore, cannot, merely by reason of the transaction resulting into increase share value, characterise a

⁵ Cape Brandy Syndicate v. Inland Revenue Commissioners (1921) 1 KB 64)

⁶ Government of Pakistan v. Hashwani Hotel Ltd (PLD 1990 Supreme Court 68)

transaction as an “appreciation of investment”. Thus, notwithstanding the applicability of section 109 as adjudged in the later judgment or (otherwise), a transaction could be re-characterized under section 109 only if it fell within the statutory definition of a tax avoidance scheme, namely, where one of the main purposes of entering into the transaction was the avoidance or reduction of tax. The transaction in question, however, cannot be regarded as an “appreciation of investment” within the meaning of Rule 5(b) merely based on the tax benefit arising therefrom.

25. Thus, notwithstanding the applicability of section 109 or otherwise, which question has not been challenged before us, Rule 5(b) could only be made applicable to a transaction where the statutory requirements for re-characterisation under section 109 are satisfied, and the transaction falls within the scope of “appreciation of investment” contemplated by Rule 5(b). In the present case, however, the transaction cannot be so characterised, particularly in the absence of any corresponding credit in the accounts.

26. The companies sold the shares to reflect their increased market value in their accounts, and that purpose was not a sham. The impugned judgments and ATIR had expressed the same view. The legislature had inserted Rule 6A in the Fourth Schedule by the Finance Act, 2005, whereby capital gains were exempted. This resulted in a tax benefit to the insurance companies. This benefit was, however, incidental to the main purpose of improving the value of the assets, capturing the market value of the shares in the accounts and improving the liquidity of the companies.

27. The learned Judges correctly observed that the anti-tax avoidance schemes of other countries could not simply be imported and applied to our jurisdiction. The anti-tax avoidance regime in Pakistan had to be examined in the light of section 109 of the Ordinance, 2001, and its language would

determine the scope of such regime. Subsection (2) of section 109 provided that, in a tax avoidance scheme, *“the main purpose of a person in entering into the transaction is the avoidance or reduction of ... liability to tax”*. The main purpose, therefore, had to be tax avoidance. If tax avoidance was only incidental or consequential, it could not be said to constitute the main purpose. If it was not the main purpose, tax avoidance under section 109 was not established.

28. The ATIR found, and the SHC concurred, that the respondent-insurance company had not taken credit for any *“appreciation of investment”* in its accounts. It had consistently shown the value of the portfolio at the acquisition cost. Before the sale, the shares were shown at the acquisition cost; after the re-purchase, they were shown at the new acquisition cost. This was what the insurance company claimed it had done, and this was what, in law, it could have been done. Rule 5(b), therefore, had no application in the facts and circumstances of the case. Even if another interpretation were possible which favoured the Revenue, the same could not be adopted. Rule 5(b), generally, and the words *“appreciation of investment”* contained therein, had to be construed in favour of the taxpayer and against the Revenue.

29. In the facts and circumstances of the case, there was no occasion to interfere with the deemed assessments. Such assessment could only be re-characterized under section 109 upon issuance of notice to the person who had entered into the transaction and whose transaction was sought to be re-characterized. Such notice could not be issued to a third party; it had to be issued to the person who had entered into the transaction. That requirement was met, as the transaction had been entered into by the insurance company. The matter did not end there, however. The Revenue was also required to establish that the main purpose of the transaction was avoidance of tax. This could not be established either on a literal or purposive

interpretation of section 109. The transaction did result in a tax benefit to the insurance company, but that benefit was incidental. Section 109 requires such purpose to be the “main” purpose; it cannot be merely incidental or consequential.

30. Insofar as the exemption from capital gains under Rule 6A of the Fourth Schedule is concerned, the same was available to the taxpayer for Tax Year 2007. The transactions in question were covered by the said Rule.

31. In view of the above, the Revenue had acted illegally, and the ATIR had rightly reversed the orders of the Commissioner Inland Revenue (Appeals) and declared the actions and orders of the Taxation Officer illegal. The learned Judges of the Sindh High Court, therefore, rightly declined to interfere with the position taken by the ATIR.

32. We are conscious that two questions were originally pressed for consideration. However, we have noted that, insofar as the applicability of section 109 is concerned, the insurance company has not challenged the reasoning and finding, since the conclusion on the other question was in its favour and there is no cross-appeal too. Indeed, the respondent attempted to argue that, in view of the earlier precedents, the reasoning assigned for the applicability of section 109 was *per incuriam* and to have a different view in the matter, it ought to have been referred to a Larger Bench, to which we are not inclined. Indeed, it was a new tool provided to the Revenue and does not hit the principle such as *per incuriam*. It has to be viewed independently, and since in this case we have already decided the matter while answering the first question, the latter is not required. We have very minutely read the latter judgment where the earlier precedents were distinguished, and such findings are not challenged before us.

33. We are of the view that the law obliges the Court to refrain from deciding the questions where the case can be decided on narrower grounds. Reference in this context may be made to the case of *Lahore Development Authority*⁷. It is appropriate for the Court to confine its determination to the pivotal issues necessary for disposal of the case. Since, on the question concerning the purpose of the transaction, this Court has reached the conclusion that the finding in favour of the taxpayer is clear and does not call for interference, we would not proceed to determine the subsequent question.

34. As a result of the above analysis and conclusion, these appeals were dismissed by short orders dated 16.06.2026, and these are the reasons.

CMA Nos. 8167 and 8168 of 2016: Through these applications, the applicant (M/s Habib Insurance Company Limited) seeks setting aside *ex-parte* orders dated 14.10.2016 passed against it. Since Civil Appeals No.788 and 789/2015, wherein the applicant is respondent, have been dismissed and decided in favour of the applicant, these applications lost their relevance. Disposed of.

Chief Justice

Judge

Judge

Islamabad:
16.09.2026

Approved for Reporting
[**]

⁷ Lahore Development Authority v. Imrana Tiwana (2015 SCMR 1739)