

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

JUSTICE MUNIB AKHTAR
JUSTICE AQEEL AHMED ABBASI

C.P.L.A. NOs.534 & 535 OF 2026

*(Against the order dated 15.12.2025 passed by the Islamabad High Court,
Islamabad in Income Tax Reference No.89/2023)*

Commissioner Inland Revenue, Large
Taxpayers Office, Islamabad *(in both cases)*

...Petitioner(s)

Versus

M/s Oracle System Pakistan (Pvt)
Limited Islamabad and another
(in both cases)

...Respondent(s)

For the Petitioner(s) : Mr. Riaz Hussain Azam, ASC/AOR
(in both cases)

For the Respondent(s) : Sardar Ahmad Jamal Sukhera, ASC
(in both cases)

Date of Hearing : 15.10.2026

ORDER

AQEEL AHMED ABBASI, J. – Through above Civil Petitions for Leave to Appeal, the petitioner has impugned the combined order dated 15.12.2025 passed by the Division Bench of Islamabad High Court ("**High Court**") whereby Income Tax References No.89 and 90 of 2023, filed against the order of Appellate Tribunal Inland Revenue, Division Bench-I, Islamabad ("**ATIR**") dated 30.11.2022 in ITA No.2297/IB/2022, have been dismissed.

2. Learned counsel for the petitioner has argued that the High Court was not justified to dismiss the Reference Applications, which were filed against the order of the ATIR dated 30.11.2022, as the same was erroneous in fact and law. According to learned counsel for the petitioner, the Commissioner Inland Revenue (Appeals-I) vide order dated 31.08.2018 remanded the matter back to the Commissioner Inland Revenue with the directions to re-examine as to whether the expenses claimed by the respondent had been added to the taxable income of the respondent during subsequent years under

Section 34(5) of the Income Tax Ordinance, 2001 ("**ITO**"), and if such amount had been offered for taxation, no disallowance could be made in the current year. Learned counsel further submits that once the matter was remanded, the Commissioner Inland Revenue was justified to examine the entire issue afresh in order to determine the correct tax liability of the respondent, irrespective of the fact that the legal issue raised after remand was not specifically mentioned in the show-cause notice issued to the respondent in the proceedings prior to remand of such order under Section 124 of the ITO. Learned counsel for the petitioner also attempted to justify the additions made towards the amount payable to related parties by the respondent, which were disallowed under Section 20(1) of the ITO. While concluding his arguments, learned counsel further submits that under Section 124 of the ITO, the Commissioner Inland Revenue, after remand of the matter is authorised to invoke the relevant provisions of the ITO for the purpose of making assessment of the tax liability, therefore, the High Court and the ATIR were not justified to delete such additions by misinterpreting the provisions of Section 124 of the ITO.

3. We have heard the learned counsel for the petitioner and perused the record as well as the impugned order passed by the High Court in the above-referred Reference Applications with his assistance. The controversy arose between the parties pursuant to an order dated 30.11.2020 passed by the assessing officer under Section 124/122(5A) of the ITO pursuant to remand by the Commissioner Inland Revenue (Appeals-I) vide order dated 31.08.2018, whereby, an addition of Rs.1,247,002,763/- was made in the income of the respondent towards the amount payable to related parties by the respondent while invoking Section 20(1) of the ITO. As per details furnished by the respondent, pursuant to notice issued by the assessing officer to this effect, the respondent submitted explanation according to which, the aforesaid amount as on 31.05.2012 being unpaid for more than three years was offered to tax by the respondent under Section 34(5) of the ITO in Tax Year 2016, whereas, it was further explained that an amount of Rs.145,678,885/- "included in the amount payable to related parties" pertains to the sale of imported hardware taxable under the final tax

regime which according to respondent was never claimed as an expense by the respondent in its Return of income. The objection raised by counsel for the respondent before the ATIR was in respect of disallowance of the above-mentioned amount by the assessing officer pursuant to order passed by the Commissioner (Appeals) which was not assailed by either party before the ATIR, therefore, attained finality, wherein, according to respondent, addition was set aside and the matter was remanded to the assessing officer to re-examine as to whether the expenses claimed had been added to the taxable income of the respondent during subsequent year under Section 34(5) of the ITO and, in case, such amount had been offered for taxation, no disallowance could be made in the current year. Perusal of the record, however, shows that explanation furnished by respondent to this effect was in line with the order of Commissioner (Appeals) whereby the assessing officer was requested to verify above factual position and not beyond it, and such position was satisfactorily explained by the respondent, however, the assessing officer did not assign any valid reasons for not accepting the explanation and for the reasons and on the grounds which *prima facie* were not disclosed in the earlier show-cause notice issued to the respondent to this effect, disallowed the aforesaid amount which has been added in the income of the respondent without realising that after decision of the appeal, in terms of Section 124 of the ITO, the assessing officer is required to give effect to any finding or direction in any order made under Part-III of Chapter-X by the Commissioner (Appeals). It appears that the assessing officer has misconstrued the provisions of Section 124 of the ITO with the proceedings after remand of a case for *de novo* proceedings, i.e. under Section 122(5A) of the ITO in the instant case. Once a matter or issue is remanded by the Commissioner (Appeals) for re-examination of certain facts only, the assessing officer is bound by such directions and cannot go beyond the mandate as given in the Appellate Order, particularly, while giving effect to such Order under Section 124 of the ITO, for the reason that Appellate proceedings are continuation of original proceedings, therefore, the original order merges into the Appellate Order, and the assessing officer is bound to give effect to such Appellate Order in its letter and spirit, without creating fresh

grounds, other than disclosed in the show-cause notice issued to the taxpayer under original assessment proceedings.

4. Keeping in view hereinabove facts and circumstances of the case, we are of the opinion that primarily, the matter relates to finding of facts as recorded by the ATIR in this regard, which has been duly approved by the High Court in the impugned order, therefore, we are not inclined to disagree with such concurrent finding of facts, as the learned counsel for the petitioner has failed to establish that such finding of facts is either perverse or contrary to the record. It is settled legal position that the finding of facts as recorded by the ATIR, unless found to be perverse or contrary to the record, cannot be disturbed by the Court while exercising reference jurisdiction or even by this Court. The legal position relating to scope of Section 124 of the ITO has been rightly interpreted by the ATIR and the High Court through impugned order, and no exception can be drawn. Accordingly, we do not find any substance in the instant Civil Petition for Leave to Appeal, which is dismissed *in limine* and leave refused.

Acting Chief Justice

Islamabad, the
15th Oct, 2026
Approved for Reporting
Muhammad hamid

Judge