

**APPELLATE TRIBUNAL INLAND REVENUE,  
MULTAN BENCH, MULTAN**

ITA No.855/MB/2023  
(Tax Year 2017)

**Mr. Ashfaq Ahmed, Prop: Hassan Traders, Layyah**  
**Registration No.: 3220225203265** **...Appellant**

Versus

**The CIR, RTO, Multan** **...Respondent**

Applicant by: **Mr. Shabbir Fakhruddin, ITP along with**  
**Mr. Safdar Ansari, Advocate**  
Respondent by: **Mr. Wazeer Ahmed, DR**

Date of hearing: **22.01.2026**  
Date of order: **23.01.2026**

**ORDER**



**Syed Mahmood ul Hassan (Member):** The titled income tax appeal has been filed by the taxpayer against the order dated 17.07.2023 of the Commissioner Inland Revenue (Appeals-I), Multan ("**CIR(A)**") whereby the order passed under section 122(1) of the Income Tax Ordinance, 2001 ("**the Ordinance 2001**"), on 29.05.2023 by the Assistant/Deputy Commissioner Inland Revenue ("**the assessing officer**"), for the Tax Year 2017, was confirmed.

2. Succinctly, the facts giving rise to the instant appeal are that the appellant-taxpayer, filed his return of total income for the tax year under consideration which was deemed to have been assessed in terms of section 120(1) of the Ordinance 2001. Subsequently the case was selected for audit u/s 214C of the Ordinance 2001. Statutory notices were issued which were partially complied with by the taxpayer. Eventually, a show cause notice under section 122(9) was issued, however, the explanation furnished in response thereto was not found satisfactory by the assessing officer. Ultimately, the amended assessment order u/s 122(1) of the Ordinance 2001 in the following manner:

Income declared	Rs. 130,3147
Turnover tax calculated u/s 113 @ 0.2%	Rs. 1,497,112
Less: tax already paid	Rs. 109,552
Tax payable	Rs.1,387,560

2. Aggrieved by this treatment, the appellant preferred an appeal before the CIR(A), who, vide impugned appellate order dated *supra* confirmed the order of the assessing officer on the basis of reasons outlined in his appellate order.

3. Feeling dissatisfied with the treatment given by the learned CIR(A), the appellant-taxpayer has come up in appeal before this Tribunal on the strength of following grounds:

"2. That the respondent No 2 was not justified to ignore all the grounds of appeal contested before him and just discuss the ground of appeal regarding application of minimum tax u/s 113 of the Income Tax Ordinance, 2001.

3. That the respondent No.2 was not justified to ignore the ground that assessment was completed without issuance of audit report u/s 177(6) of the Income Tax Ordinance, 2001 which is not maintainable in the eyes of law. Reliance is placed on reported / un-reported judgments cited as 2018 SCMR 1328 (SC), ITA No. 152/MB/2022 (Tax Year-2015), ITA No. 626/MB/2022 (Tax Year-2016), ITA No. 1543/LB/2021 (Tax Year-2015).

4. That the respondent No. 2 was not justified to confirm the assessed turnover by respondent No. 3 at Rs.748,556,000/- against the declared turnover of Rs.59,031,666/- which is highly excessive, harsh, arbitrary and without any basis.

5. That the respondent No. 2 was not justified to confirm the treatment of respondent No. 3 regarding adoption the tax u/s 236G at Rs.748,560/- against declared tax of Rs.74,856/- as per certificate of sales issued by the supplier Company M/s Shamim & Co (Pvt) Ltd.

6. That the respondent No. 2 was not justified to confirm the estimate of purchases by the respondent No. 3 at Rs.74,856,000/- against declared purchases of Rs.55,194,608/- as per certificate of supplier Company M/s Shamim & Co (Pvt) Ltd,

7. That the respondent No. 2 was not justified to confirm the charge of minimum tax u/s 113 by the respondent No. 3 on the estimated sales/turnover instead of declared sales/turnover. Reliance is placed on Un-reported ATIR Judgment ITA No. 1987/LB/2020 (Tax year 2018).

8. That the respondent No. 2 was not justified to confirm the estimate of sales/turnover Rs.748,556,000/- on the basis of tax paid u/s 236G Rs.748,560/- instead of Rs.74,856/- which is without any basis.

9. That the respondent No. 3 has passed the order u/s 122 (1) of the I.T.O.2001 dated 29-05-2023 in a hasty manner without application his mind and also passed unspeaking order and respondent No. 2 also confirmed the impugned order.

10. That the respondent No. 2 was not justified to ignore our replies submitted before respondent No. 3 vide ref letter No.1/H-14/19 dated 03-05-2019, 2/H-14/19 dated





07.11.2019 Copies enclosed) and respondent No. 3 completed the assessment on whims, surmises, conjectures.

11. That the respondent No. 3 was not justified to say that reply is considered as unsatisfactory without discussing replies that on what grounds the replies were unsatisfactory and respondent No. 2 was also erred to ignore it.

12. That the respondent No. 2 was not justified to ignore that impugned assessment was made in a hasty manner and just harass the taxpayer by creating the bogus and disputed tax demand amounting Rs. 1,497,112/- by the respondent No. 3 and confirmed it."

4. Mr. Shabbir Fakhruddin, ITP along with Mr. Safdar Ansari, Advocate appeared on behalf of the appellant-taxpayer and Mr. Wazeer Ahmed represented the department as Departmental Representative (DR).

5. We have heard the learned Representatives and have also carefully perused the impugned orders, grounds of appeal and the available record. The controversy, in substance, revolves around the manner in which the assessing officer has recast the declared turnover/sales and consequently computed minimum tax under section 113, mainly by drawing inference from the amount of tax shown as deducted/collected under section 236G.

6. At the outset, it is observed that the assessing officer, while issuing the show cause notice and while finalizing the amended assessment, has proceeded on the premise that the taxpayer's purchases/sales are to be adopted at Rs. 74,856,000/- (and even at Rs. 748,556,000/- at the end of page to of his order) merely because tax u/s 236G was presumed at Rs. 748,560/-. This approach is internally inconsistent and is not supported by any independent material. The record shows that the taxpayer had declared turnover/sales at Rs. 59,031,666/- and purchases at Rs. 55,194,608/-, whereas the assessing officer enhanced the turnover by applying a straight-line presumption from the withholding tax figure without establishing any factual basis such as unrecorded supplies, suppression of sales, parallel business, third party information, stock variation, or banking trail.

7. The learned AR has produced before us the MIS report downloaded from the FBR portal, which verifies the tax





deducted/collected relevant to ground No. 5 and demonstrates that the withholding tax figure is Rs. 69,709/- and certificate of M/s. Shamim & Company verifying the figure of Rs. 74,856/- (and not Rs. 748,560/-). This MIS verification and certificate materially goes to the root of the matter because the entire working of the assessing officer is built upon an assumed figure of withholding tax and an assumed multiplication, which is neither reconciled with the portal record nor supported by any lawful reasoning.

8. We further observe that the assessing officer, in his order, has stated that "it is crystal clear that company provides the certificates u/s 236G after exclusion of sales tax and FED, therefore reply is unsatisfactory", however, this observation is not followed by any cogent computation showing how and why the declared figures become incorrect. A mere statement that the certificate excludes certain components does not, by itself, establish that the declared turnover is understated or that the taxpayer's declared version is false. If the assessing officer intended to reject the declared figures, the law required him to confront the taxpayer with specific defects, call for primary evidence, and then reach a reasoned conclusion supported by record.

9. It is also evident that the taxpayer, in response to the show cause notice, had asserted that detailed replies along with supporting documents were already submitted earlier and copies were again provided. The same are now also produced before us. In such circumstances, the order was required to reflect application of mind to the taxpayer's documentary position, particularly where the case is based on figures capable of verification from departmental systems. Instead, the impugned assessment appears to have been finalized on presumptions and arithmetical extrapolation, which cannot be sustained as a lawful basis for enhancing turnover and charging minimum tax thereon.

10. As regards the impugned appellate order, the learned CIR(A) has upheld the amended assessment primarily on the reasoning that the taxpayer did not establish his claim "on all



fours" and that reliance could be placed on certain case law relating to distributor status. However, the present dispute before us is not merely about nomenclature of "distributor" or "dealer". The core issue is the factual correctness of withholding tax figure u/s 236G and the consequential turnover adopted. Once the MIS report confirms the correct withholding tax, the foundation of the assessing officer's working collapses, and the impugned confirmation by the CIR(A) becomes unsustainable.

11. We are therefore of the considered view that the amended assessment order is based on wrong facts and incorrect presumptions, particularly in adopting the turnover/sales by misreading the withholding tax figure under section 236G. Accordingly, the charge of minimum tax under section 113 on such estimated turnover cannot legally survive.

12. Resultantly, the impugned order of the learned CIR(A) is set aside and the amended assessment order passed by the assessing officer is annulled.

13. The appeal filed by the taxpayer is accepted.



*sd -*  
(MIAN ABDUL BASIT)  
Member

*sd -*  
(SYED MAHMOOD UL HASSAN)  
Member

Appeal No. ITA 855/MB/23  
Date of Order. 23.1.26  
TRUE COPY OF ORDER FORWARDED TO  
1. APPELLANT: Ashfaq Ahmad  
2. RESPONDENT: M U  
30.01.26  
ASSISTANT REGISTRAR  
APPELLATE TRIBUNAL INLAND REVENUE  
MULTAN