APPELLATE TRIBUNAL INLAND REVENUE
DIVISION BENCH-III, ISLAMABAD

(Tax Year, 2018)

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Commissioner Inland Revenue (WHT Zone), RTO, Islamabad.	Appellant/Department
Vs	
	Respondent
Appellant By	Mr. Siraj Muhammad, DR
Respondent By	Mr. Muhammad Alee, Adv
Date of Hearing	18.06.2026
Date of Order	18.06.2026

ORDER

MUHAMMAD NAEEM ASHRAF (MEMBER): This order shall dispose of the departmental appeal directed against the consolidated order dated 13.04.2020 passed by the learned Commissioner Inland Revenue (Appeals-II), Islamabad, whereby twelve appeals filed by the taxpayer, bearing Appeal Nos and arising out of separate penalty orders passed under section 182(1) of the Income Tax Ordinance, 2001 for the tax periods from July, 2017 to June, 2018, were disposed of through a single consolidated order and the penalty imposed by the Assessing Officer was modified. The department, being aggrieved, has preferred only one appeal before this Tribunal against the said consolidated order, mainly contending that the taxpayer was legally obliged to furnish withholding statements under section 165 of the Ordinance and that the penalties imposed by the Assessing Officer were already the minimum prescribed under the law.

2. Briefly stated, the taxpayer was treated by the department as a withholding agent under various provisions of the Income Tax Ordinance, 2001, including

sections 236I and 155, and was, accordingly, considered liable to furnish withholding tax statements under section 165 of the Ordinance for the relevant tax periods. On examination of record, the Assessing Officer observed that the taxpayer had failed to furnish the prescribed withholding statements for the subject periods. Consequently, penalty show-cause notices under section 182(2) of the Ordinance were issued through IRIS as well as through UMS, calling upon the taxpayer to explain as to why penalty under serial No.1A of the Table to section 182(1) should not be imposed for failure to furnish statements required under section 165 within the due date. The show-cause notice recorded that the taxpayer, being a withholding agent, was required to collect/deduct advance tax, deposit the same into the Government Treasury under section 160 of the Ordinance read with Rule 43 of the Income Tax Rules, 2002, and also to furnish withholding statements as prescribed under the law. The taxpayer was required to submit reply and attend hearing on the date fixed. However, according to the Assessing Officer, no one appeared, no reply was furnished, no adjournment was sought, and no valid cause was shown for non-filing or late filing of the withholding statements. The Assessing Officer, therefore, proceeded to impose penalty of Rs.10,000/- in each order, being the minimum penalty prescribed under serial No.1A of the Table to section 182(1) of the Ordinance.

3. Feeling aggrieved, the taxpayer preferred appeals before the learned CIR(A), who, vide the impugned order, modified the penalty orders and reduced the penalty amount to Rs.25,000/- for the entire period from 01.07.2017 to 30.06.2018. The department has now come up in appeal before this Tribunal.

4. On the hearing date, the learned DR supported the penalty orders and contended that the taxpayer was legally bound to furnish withholding statements under section 165 of the Ordinance, irrespective of actual deduction or payment of tax. It was argued that the taxpayer, being an educational institution, was also covered under section 236I and had previously paid withholding tax for tax year 2015, which established its awareness of withholding obligations. The learned DR further submitted that the Assessing Officer had imposed only the minimum penalty under section 182(1), therefore, the learned CIR(A) was not justified in reducing the same. Restoration of the penalty orders was accordingly prayed for. Conversely, the learned AR supported the order of the learned CIR(A) and submitted that the penalty orders were passed mechanically, without establishing any conscious or deliberate default. It was argued that the taxpayer, being an AOP with turnover below the prescribed threshold under section 153(7)(h), was not able in the manner alleged by the department. It was further submitted that no s of revenue had been brought on record and the learned CIR(A) had already taken a balanced view by reducing the penalty instead of deleting it altogether. Dismissal of the departmental appeal was accordingly prayed for.

5. We have heard the learned Departmental Representative and perused the available record with care. The controversy, though arising out of penalty proceedings under section 182(1) of the Income Tax Ordinance, 2001, first calls for examination of the maintainability of the present departmental appeal. The record reveals that the Assessing Officer passed separate penalty orders for different monthly tax periods from July, 2017 to June, 2018. Being aggrieved, the taxpayer preferred twelve separate appeals before the learned CIR(A), bearing Appeal Nos. . The learned CIR(A), for the sake of convenience and as

the issues involved were common, disposed of the said twelve appeals through a consolidated order dated 13.04.2020. However, the department, while assailing the said consolidated order, has filed only one appeal before this Tribunal.

6. The legal consequence of the above position cannot be ignored. Each penalty order passed by the Assessing Officer constituted a separate adjudicatory order, creating a separate civil liability for a distinct period. Merely because the learned CIR(A), for facility of disposal, decided the twelve appeals through one consolidated order, the separate identity of each original penalty order and each first appeal did not merge into one indivisible cause of action for the purpose of further appeal before this Tribunal. Consolidation is a matter of procedural convenience, it does not obliterate the independent character of separate orders, nor does it convert several orders into one order for purposes of limitation, appeal, fee, memorandum, relief, and adjudication.

At the relevant time section 131 of the Income Tax Ordinance, 2001 provided that where the taxpayer or Commissioner objects to an order passed by the Commissioner (Appeals), the taxpayer or Commissioner may appeal to the Appellate Tribunal against such order. Sub-section (2) further required that such appeal shall be in the prescribed form, verified in the prescribed manner, accompanied by the prescribed fee except in case of appeal preferred by the Commissioner, and filed within sixty days of the date of service of the order of the Commissioner (Appeals). The expression "an order" and "such order" appearing in section 131 is not without significance. It contemplates an appeal against the particular order in respect whereof the appellant is aggrieved. Where several penalty orders for several periods have been separately challenged before the first

appellate authority and have been disposed of by a consolidated order, the aggrieved party is required to file separate appeals or, at the very least, a properly constituted composite/consolidated appeal disclosing and challenging all the separate orders/appeals in accordance with law. In the present case, admittedly, the department has not filed twelve appeals corresponding to Appeal Nos. decided by the learned CIR(A). A single appeal, in the manner filed, cannot validly be treated as an appeal against all the twelve separate penalty orders.

8. The defect is not merely cosmetic or clerical. The right of appeal is a statutory right and must be exercised strictly in the manner provided by the statute. The Tribunal cannot enlarge, reframe or reconstruct the departmental appeal so as to convert one appeal into twelve appeals. Nor can one memorandum of appeal be permitted to ride over twelve distinct penalty orders when each order gave rise to an independent right of appeal and required independent invocation of appellate jurisdiction. If such course is permitted, the statutory discipline of appeal, limitation, identification of impugned order, subject-matter of challenge and consequential relief would stand diluted. We, therefore, hold that the present appeal, being one appeal against a consolidated disposal of twelve separate appeals arising out of twelve separate penalty orders, is not competently filed to the extent it purports to challenge all such orders.

9. Even otherwise, without prejudice to the above legal position, we are not persuaded to interfere with the ultimate conclusion reached by the learned CIR(A). The penalty orders rested on the assumption that the taxpayer was liable to furnish withholding statements for all the periods from July, 2017 to June, 2018, and that mere non-filing thereof was sufficient to attract separate penalties. The learned

CIR(A), however, disturbed the very foundation on which the Assessing Officer had built his case. Once the basis of the penalty orders stood displaced, the orders, as originally framed, were not liable to be upheld.

10. In view of the foregoing, the departmental appeal is dismissed, primarily on account of its defective filing and incompetency in the present form. Even otherwise, no case for interference with the ultimate result of the order passed by the learned CIR(A) has been made out. The appeal filed by the department is accordingly dismissed.

(MUHAMMAD NAEEM ASHRAF)
MEMBER

(NASIR IQBAL)
MEMBER

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