

**In the Supreme Court of Pakistan**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Anwar Zaheer Jamali  
Mr. Justice Amir Hani Muslim

**C.P.L.A. No.11-K of 2011**

(On appeal from order of High Court of Sindh, Karachi  
Dated 29.10.2010 passed in ITRA No.148 of 2010)

Commissioner (Legal) Inland Revenue, Large Taxpayer Unit,  
Karachi

Petitioner

Versus

Trading Corporation of Pakistan (Pvt) Ltd.

Respondent

For the petitioner: Mr. Nasrullah Awan, AOR/ASC

For the respondent: Mr. Salman Pasha, ASC  
Mr. K. A. Wahab, AOR

Date of hearing: 19.7.2011

**Order**

**Anwar Zaheer Jamali, J** - By this civil petition, Commissioner (legal) Inland Revenue, Large Taxpayer Unit, Karachi, seeks leave of the Court against the order dated 29.10.2010, in ITRA No.148 of 2010 (Rre: Commissioner (Legal) Inland Revenue versus Trading Corporation of Pakistan (Pvt) Ltd.), whereby the said reference application against the order of the Income Tax Appellate Tribunal (Pakistan) Karachi, dated 12.10.2009, in ITA No.606/KB/2008, containing questions of law for opinion of the High Court in terms of section 133 of the Income Tax Ordinance 2001, was dismissed, inter alia, for the following reasons:-

"12 In the light of these observations of the Assessing Officer we will examine the provisions of clause 13-G of Part

ATTORNEY  
[Signature]

II of the Second Schedule which has been reproduced above, Clause 13-G provides that tax under Section 48 on the items there-under shall be collected @ 1% of their duty paid value. This provision clearly provides that despite education of tax rate, the tax is deductible under Section 148. Part II of Second Schedule provides for reduction in tax rates and the heading of this part states that income or classes of income, or persons or classes of persons, enumerated below, shall be liable to tax at such rates which are less than the rates specified in the First Schedule. The conclusion is that Part II of Second Schedule reduces the rate prescribed in the First Schedule for certain persons or classes of persons for incomes or classes of incomes and though the nature of tax remains the same and the section under which it is payable also remains unchanged the rate is reduced. The learned counsel has not been able to satisfy us that tax deductible at reduced rates in view of the provisions of 13-G cannot be considered as tax deductible under section 148 but will be considered to be deductible under 13-G. Even otherwise it is a settled law that the tax is payable and deductible under charging section and not under the exemption Sections. The learned counsel wants us to read words which are not there in this clause which only provides that for non-applicability of section 153, tax is only to be deducted under section 148 and does not make exception that tax should only be deducted at the rates prescribed in the First Schedule and not at reduced rates. It is a principle of interpretation that while interpreting a statute, words which are not a part of the statute cannot be read in it."

2. We have heard Mr. Nasrullah Awan, learned ASC for the petitioner, perused the relevant provisions of the statute, which have also been reproduced in paragraph 8 of the impugned order, and seen that learned Division Bench in the High Court of Sindh has properly examined the controversy relating to two questions proposed in the said reference application, which were accordingly answered in the affirmative and in favour of respondent.

ATTORNEY  
*Ind Malik*



3. Mr. Nasrullah Awan, learned ASC for the petitioner has not been able to show us any legal infirmity in the impugned order, which may justify grant of leave to appeal in the matter. Accordingly, leave to appeal is refused and this petition is dismissed.

Sd/- Ammar Zahees Jamali, J.  
Sd/- Amir Hani Muslim, J.

CERTIFIED TO BE TRUE COPY

Supreme Court of Pakistan  
22-7-11

Karachi the  
19th July, 2011  
Not approved for reporting.  
Riaz

20/7

C.P. 11-K/11  
Case No. 19-07-11 9  
Date of filing 900  
No. of pages 5.00  
No. of copies 5.58  
Cost of printing 10.58  
Court fees 22-07-11  
Date of receipt 25-07-11  
Received by Mrs. Nasrullah Awan, WCR/MSK