

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Special Sales Tax Reference Application No. 649 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For order on office objection No. 25 & 26.
2. For order on CMA No. 3717/2022. (Exemption)
3. For hearing of main case.

07.10.2025

Mr. Shahid Ali Qureshi, advocate for applicant.

Paragraph 8 of the impugned judgment reads as under:-

“8. As far as the issue regarding demand of further tax is concern, we have perused the contents of SRO 648(I)/2013 dated 09-06-2013, wherein, the goods sold directly to the end consumers are exempted from chargeability of further tax which is the case of the Appellant. The DR has not controverted the contention of the AR that the Appellant is doing his business activities of import of iron and steel goods which are being supplied to registered and unregistered persons as well as directly to the end-consumers under the same SRO 648(I)/2013 for the last many years on which no objection has ever been made by the Department except this case. The DR put on question about placing on record any tangible evidence to establish allegation of supply of alleged goods to the unregistered persons instead of directly to the end-consumers by the Appellant, but, the DR could not been able to answer the question through any tangible evidence. It is well established principle of law that a party making an allegation must bring material evidence to prove the same and any action which is based upon no evidence is not permitted under the law. As per the principle of law the Department has to placed on record adverse material evidence to establish its allegation that the alleged supplies made by the Appellant does not fall under SRO 648(I)/2013 being not made directly to end consumers rather made to the unregistered persons which were chargeable to alleged further tax. An adjudication based on mere presumption of fact is not sustainable under Article 117 r/w Article 118 of Qanoon-e-Shahadat Order, 1984 as per well settled law. whereas, the Honourable Sindh High Court, Karachi has held in its judgment in case of M/s Al-Hilal Motors vs. The Collector reported in PTCL 2004 CL.1 that "the sales tax imposed on the basis of some assumption and presumption not warranted in law shall always be struck down. In the light of our findings and law, the impugned orders and demand of further tax made therein are held to be illegal, arbitrary, discriminatory and not in accordance with the law.

Upon being confronted as to whether any question arises out of the order of the tribunal, learned counsel responded in the negative. Counsel states that the questions pleaded are dissonant with the controversy and has also not articulated any cavil to the rationale applied by the learned tribunal. In view hereof, it is observed that no question for determination has been articulated before this Court, therefore, the reference is dismissed in *limine*.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal, as required per section 47 subsection 5 of Sales Tax Act, 1990.

Judge

Judge