

THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Muhammad Jaffer Raza

C.P. No. D – 4583 of 2025

[M/s. Gama Lux Oleochemicals Limited versus Federation of Pakistan & others]

Petitioner : M/s. Gama lux Oleochemicals Limited through Mr. Muhammad Anwar Ullah, Advocate.

Date of hearing : 23-09-2025

Date of decision : 23-09-2025

ORDER

Adnan Iqbal Chaudhry J. - 1] Urgency granted. 3] Exemption granted subject to all just exceptions. 2, 4-5] By SRO 709(1)/2025 dated 22.04.2025, issued under section 50 of the Sales Tax Act, 1990 read with sub-Rule (2) of Rule 150-Q of the Sales Tax Rules, 2006, the FBR notified that corporate and non-corporate registered persons shall electronically integrated their hardware and software with the FBR's computerized system through a licensed integrator. It is contended by the Petitioner that SRO 709(1)/2025 is *ultra vires* sub-section (3) of section 23 of the Sales Tax Act, 1990 in that, such SRO mandatorily requires registered persons to issue electronic invoices, whereas sub-section (3) of section 23 of the Act provides the registered person with an 'option' to issue electronic invoices. In pitching such case, the Petitioner relies on the word 'may' in sub-section (3) of section 23 as it existed in the year 2023 as under:

"23(3). A registered person making a taxable supply may, subject to such conditions, restrictions and limitations as the Board may, by notification in the official Gazette, specify, issue invoices to another registered person electronically and to the Board as well as to the Commissioner, as may be specified."

However, at the time SRO 709(1)/2025 was issued, sub-section (3) of section 23 of the Sales Tax Act stood amended by the Finance Act, 2024 to use the word 'shall' as follows:

“23(3). A registered person making a taxable supply shall, subject to such conditions, restrictions and limitations as the Board may, by notification in the official Gazette, specify to issue electronic invoices.”

The Rules for electronic integration of hardware and software used by registered persons for generating and transmitting electronic invoices through a licensed integrator were then set-out in Chapter XIV of the Sales Tax Rules, 2006.

Further, as part of the scheme for monitoring electronic invoices, the Finance Act, 2024 also added sub-sections (4) and (5) to section 40C of the Sales Tax Act to stipulate:

“40C(4). Notwithstanding anything contained in this Act, the Board through notification in the official Gazette, may require any person or class of persons to integrate their electronic invoicing system with the Board’s Computerized System for real time reporting of sales in such mode and manner and from such date as may be specified therein; and
(5) Licensed integrator shall integrate electronic invoicing system of registered persons referred to in sub-section (4) in such mode and manner as may be prescribed.”

Ex-facie, sub-section (3) of section 23 and sub-sections (4) and (5) of section 40C of the Sales Tax Act, as amended by the Finance Act, 2024, no longer leave an ‘option’ for issuing electronic invoices with registered persons who have been so notified by the FBR, rather said provisions require compliance with electronic invoicing. Therefore, SRO 709(1)/2025 is not *ultra vires* sub-section (3) of section 23 of the Sales Tax Act, 1990. The very premise of the challenge appears to be a non-reading of the statute. Resultantly, the petition is dismissed in *limine*.

JUDGE

JUDGE