HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1503 of 2026
[Fahad Memon vs. Province of Sindh and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Shahzel Memon advocate
Respondent No.1	Through Mr. Rafique Ahmed Dahri Additional A.G Sindh
Respondents 2to4:	Through Mr. Fayaz Ahmed Leghari advocate
Date of hearing	27.10.2026
Date of Decision	27.10.2026

O R D E R

***

ADNAN-UL-KARIM MEMON, J. - The petitioner claims to be the owner/ proprietor of restaurant namely "Pizza Host N Spicy Roof Top," situated at Naseem Nagar Chowk, Qasimabad Hyderabad. He alleges that on 28.07.2026, Respondents No. 3 and 4, accompanied by SRB officials and police personnel, forcibly entered and sealed his restaurant without prior notice or lawful justification and caused damage to the premises.

2. Learned counsel for the petitioner contends that the restaurant was not registered with Sindh Revenue Board (SRB) and was not liable to pay sales tax under the applicable law. Despite approaching the SRB authorities and the Anti-Corruption Establishment, he received no effective relief. His direct complaint before the Special Judge Anti-Corruption was dismissed, whereafter he filed an application under Sections 22-A and 22-B of the Cr.P.C. seeking registration of an FIR. Now he seeks de-sealing of the restaurant, restraint against harassment and unlawful action, and a departmental inquiry against the concerned officials.

3. Learned counsel for Respondent Nos. 2 to 4 opposed the petition, contending that the petitioner lacks locus standi as the SRB and FBR records identify Mr. Shahid as the proprietor of the business, and that an efficacious statutory remedy of appeal under Section 57 of the Sindh Sales Tax on Services Act, 2011, was / is available but not availed. He submit that the restaurant was voluntarily registered with SRB since 27.09.2017 and had been filing sales tax returns while allegedly suppressing taxable services and evading tax. It is submitted that following an inspection conducted on 31.01.2026, notices and hearing

opportunities were provided, culminating in Order-in-Original No. 5038 of 2026 dated 06.05.2026, whereby tax liability of Rs.41,349,099/- and penalties of Rs.43,516,533/- were imposed and that order needs to be assailed. As recovery notices and attempts to attach bank accounts proved unsuccessful as such, the premises were sealed on 28.07.2026 under Section 66(1)(d) of the Act, 2011. The respondents deny any illegality, damage, harassment or violation of fundamental rights and maintain that the sealing was a lawful recovery measure against an outstanding tax demand. He accordingly prayed for dismissal of the petition as non-maintainable, misconceived and devoid of merit.

4. We have heard learned counsel for the parties and examined the available record.

5. The respondents have produced the registration profile of M/s Pizza Host N Spicy, the show-cause notice, the Order-in-Original dated 06.05.2026 and the subsequent recovery notices, which prima facie indicate that the impugned sealing was undertaken in consequence of an adjudicated tax liability and pursuant to recovery proceedings under Section 66(1)(d) of the Sindh Sales Tax on Services Act, 2011. The petitioner's assertion that the restaurant was unregistered and was sealed without prior proceedings is, therefore, disputed by the departmental record.

6. It is settled law that the constitutional jurisdiction of this Court under Article 199 of the Constitution is ordinarily not to be invoked where an adequate and efficacious statutory remedy is available, particularly when the petitioner has failed to challenge the impugned order before the competent appellate forum within the prescribed period.

7. In the present case, Section 57 of the Act, 2011 provides a statutory remedy of appeal against the order of assessment, including a provision for condonation of delay upon sufficient cause. The petitioner has neither availed the said remedy nor established, at this stage, any exceptional circumstance warranting interference by this Court under Article 199 of the Constitution. This principle is supported by various case laws.

8. Furthermore, the discrepancy regarding the ownership of restaurant, the applicability of the statutory exemption from sales tax, the correctness of the assessed liability and the alleged damage to the premises involve questions of fact requiring examination of the relevant documentary evidence which could be thrashed out in Appeal. Such disputed matters are not ordinarily suitable for determination in constitutional jurisdiction, particularly when the governing statute provides a specific appellate mechanism. Nevertheless, the availability of an alternate remedy does not absolutely bar constitutional intervention where a patent lack of jurisdiction, mala fides, or a clear violation of due process is established.

9. In view of the foregoing, and subject to verification of the relevant departmental record by the competent authority, the petitioner has failed to establish sufficient grounds for interference under Article 199 of the Constitution. However, the petition is disposed of in the presence of an adequate statutory remedy, and if the petitioner filed Appeal, the competent authority / Appellate Authority shall look into the matter at their end, decide the issue / Appeal within two weeks by reasoned order, after hearing the petitioner.

JUDGE

JUDGE

Karar_Hussain/PS*