

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**CP D-4652 of 2018**

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Order with signature of Judge

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Present: **Mohammad Ali Mazhar** and **Agha Faisal, JJ.**

- 1. For hearing of Misc. No.20673 of 2018*
- 2. For hearing of main case*

02.05.2019

**Mr. M. Kokab Sabahuddin, Advocate for the petitioner.**  
**Mr. Kafeel Ahmed Abbasi, Advocate for the Tax Department.**

**Mohammad Ali Mazhar J.-** On 20.06.2018, the learned Divisional Bench of this Court passed a restraining order that till the next date of hearing, the respondent shall not pass an adverse order against the petitioner pursuant to the impugned notices. Learned counsel for the Tax Department submits that interim orders were passed by this Court on 20.06.2018, whereas the Assistant Commissioner Inland Revenue, FBR had already passed Assessment Order No.77/06/2017-2018 against the petitioner on 19.06.2018 and an appeal against the said order could have been filed within 30 days from the receipt of the order under Section 45-B of the Sales Tax Act, 1990. On the contrary the learned counsel for the petitioner submits that the petitioner was never served with the copy of the order therefore the appeal could not be filed. He also disputed the contention raised by the learned counsel for the Tax Department that this order was passed on 19.06.2018 rather he made emphasis that this order was passed after receiving the interim order passed by this Court. At this juncture, learned counsel for the petitioner argued that in the order dated 19.06.2018 the barcode is available and the order was communicated online. It is not possible for the Tax Department to

interfere in the software and change the date of posting the order on the website.

Obviously, this factual controversy cannot be decided in the writ jurisdiction. This is also a fact that the order is appealable and appeal could have been filed but the learned counsel raised the plea that no order was served on him. This is a very good ground for seeking condonation if the appeal is filed before the Commissioner Appeals. The petitioner may file appeal at an earliest alongwith an application for condonation of delay and the learned Commissioner appeals may consider the question of service of order on the petitioner which has in fact become a cause of non-filing the appeal within the limitation period prescribed under the law. The petition is disposed of accordingly.

**J U D G E**

**J U D G E**

*Farooq ps/\**

