



Town. Due to a tipoff, a survey of the said premises was carried out, which revealed that the said facilities are not being used by the said M/s. Mind Challenge. It is further revealed that at the said place, several power looms are installed and owned by different persons, who disclosed that they did not know Saif-ul-Mulk (Proprietor of M/s. Mind Challenge) and never rented out their facilities to him.

- b) It is also alleged that the said Saif-ul-Muluk or M/s. Mind Challenge during the period under review imported various kind of fabrics amounting to Rs. 176,669,306/- as manufacturer for in-house consumption at the rate of zero percent under SRO 1125 (I) 2011 dated 31/11/2011 against, which he is liable to pay sales tax of Rs. 1,59,00,238/- and VAT of Rs. 35,33,386/- It is also alleged that the said registered persons has sold out imported finished taxable goods amounting to Rs. 12,92,30,561/- to different unregistered persons and avoided to pay further tax of Rs. 38,76,917/-. The said registered person also declared supplies of Rs. 4,74,38,745/- to M/s. Pearl Enterprises (NTN # 8969851-1) and M/s. Universal Enterprises (NTN # 8006846-2), who are registered at RTO, Islamabad but non-filer as the said sales treated as fake and in this way he caused further tax loss and as per estimation the total revenue evasion comes to the tune of Rs. 2,47,33,705/-
- c) As far as allegations against the applicants, the same have come under the interim final report according to which Muhammad Aamir is clearing agent and work for his father's agency i.e. Patanwala Traders as well as he himself owns an unregistered clearing agency under the name of Emaan Enterprises. As per allegations, the clearance of some imported goods of M/s. Mind Challenge was done on the account of Patanwala Traders, which was allegedly managed by Muhammad Aamir, as his father being an old man could not do so. The allegations against the applicant Muhammad Sohail in the interim final report are that he is the connecting link between clearing agent and broker, as such he has abated in the shaping of the crime.

- d) From the above facts, it is evident that the main culprit is Saif-ul-Mulk (proprietor of M/s. Mind Challenge), while the applicants have acted only as clearing agent and broker.
- e) From the prosecution document, it is evident that the said Saif-ul-Mulk (proprietor of M/s. Mind Challenge) has given a wrong and incorrect address of his so-called facilities and the Investigators have collected that the facilities mentioned in the Sales Tax Registration of Saif-ul-Mulk (proprietor of M/s. Mind Challenge) was never rented out to him. Now question arises, how the registration certificate was issued to Saif-ul-Mulk (proprietor of M/s. Mind Challenge), as at the time of registration it is mandatory that the facility of manufacturer should be inspected by the sales tax authorities.
- f) In the present scenario, it is clear that the officials of sales tax authorities are also involved in the whole affairs and they are very tactfully let off during investigation. It is the point regarding which the authorities should be mindful and take necessary steps at the time of furnishing final report before the learned trial Court. In case, the real culprits from the sales tax authorities will not be put to task by the Investigation Officer, it will also be amounting to negligence on his part; rather it will show his incompetence.
- g) I am of the view that the applicants have acted in the instant matter after going through the documents produced before them by the main culprit i.e. the import documents as well as the registration certificate with sales tax department for getting benefit of SRO 1125 (I) 2011 dated 31.11.2011.
- h) The applicants after going through the Sales Tax Registration Certificate are legally not bothered to ensure whether the registered person is actually having a manufacturing unit for using the imported goods or not.
- i) The applicants are at the most supposed to verify whether the registration document produced by the importer is genuine and that would be online doable. I am of the view that such verification would have been done as it is admitted that the importer was having a Sales Tax Registration Certificate, as

such his name must be available on the online list of sales tax registered persons.

- j) So far nothing has been collected by the investigating agency that the applicants were in conscious knowledge about the fact that the registered person was not a manufacturer and he has got himself registered with sales tax authorities by playing some trick, as such the case against the applicant is a fit case of further probe.
- k) The interim report itself says that the actual culprit is Saif-ul-Mulk (proprietor of M/s. Mind Challenge) and no convincing evidence available to believe that the applicants are having any nexus with the main accused. I am of the considered view that whatever the applicants have done, it was as per their routine business and even no persuasive indication regarding their involvement is available except the transaction, which is the routine of their business.
- l) In the instant case, the active part of the applicants is missing, while whatever evidence available against them is documentary in nature and the same is not in their control, as such there is no likelihood of tampering with the prosecution evidence by them.

3. In view of the above observations, I am of the considered view that the case against the applicant falls under the proviso of further enquiry and up to this point of time nothing on the record is available which show that active connivance with the main accused regarding the offence; as such a case of bail has been made out in their favour. Resultantly, the applicants are admitted to bail subject of furnishing solvent surety up to the extent of Rs. 1,000,000/- (Rupees One Million Only) each and PR bond in the like amount through my short order dated 11-07-2019 and these are the reasons for the same.

4. It is further observed that if after releasing the applicants on bail, they choose not to appear before the trial Court and the trial Court is satisfied that the applicants become fugitives to law and trial or there are other grounds available before the trial Court that the applicants have violated the spirit of the relief given to them through this bill order; then the trial Court will be fully justified to take any action against the applicants including cancellation of their bail and taking action against their sureties without making a reference to this Court.

5. Needless to say that the above observations are purely tentative in nature; as such it is supposed from the trial Court that it would not deviate from the golden rule of 'justice according to law without any fear in favour' due to these tentative observations.