

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-6828 of 2017

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Agha Faisal

M/s. Paramount Lace.....Petitioner

VERSUS

Federal Board of Revenue & others.....Respondents

31.10.2018

Mr. Gazain Zafar Magsi, Advocate for the Petitioner.
Mr. Kafeel Ahmed Abbasi, Advocate for the Tax Deptt.
Mr. M. Zahid Khan, Assistant Attorney General.

Muhammad Ali Mazhar, J: Through this Constitution Petition, the petitioner has challenged the show cause notice dated 21.09.2017 issued under Section 11(2) of the Sales Tax Act, 1990 in which it is stated that during the scrutiny of monthly sales tax returns for the period August-2017 it was observed that the petitioner supplied finished articles of textile but failed to charge leviable sales tax @ 6% on taxable value as envisaged under SRO 584(I)/2017 dated 01.07.2017. The learned counsel argued that on the basis of similar show cause notices earlier the orders in original were passed against the petitioner but in appeal to the Commissioner (Appeals) such orders were set aside and against that order no appeal was filed by the department in

the Tribunal. Despite this, the respondents have again issued show cause notice for the subsequent period. This case was fixed before the learned Division Bench of this court on 11.10.2017 when after reducing in writing the entire controversy the learned Division Bench ordered that the petitioner shall file reply to the show cause notice and raise all such factual and legal grounds which shall be considered by the respondent strictly in accordance with law keeping in view the order passed by the Commissioner Inland Revenue (Appeal). It was further observed in the same interim order that the respondents shall also ensure that recovery of the disputed amount in respect of appeals filed by the petitioner before the Commissioner Appeals alongwith stay application shall not be enforced by adopting coercive measures including attachment of bank accounts till its final decision by the Commissioner (Appeals).

2. As a result of above discussion, this petition is disposed of in the following terms:

- (i) The order in the proceedings initiated on the basis of impugned show cause notice may be passed by the department in accordance with the law but at the time of passing the order the effect of order passed by the Commissioner Inland

Revenue (Appeals) earlier on the same issue in favour of the petitioner shall be considered properly.

- (ii) In case any adverse order is passed, the petitioner may file appeal and till pendency of the appeal filed by the petitioner before the Commissioner (Appeals) including the earlier filed appeals on identical issue, no coercive measures shall be taken for the recovery including attachment of bank accounts of the petitioner, however, the learned Commissioner (Appeals) shall decide all pending appeals of the petitioner preferably within a period of one month.

Pending application is also disposed of.

Judge

Judge

Asif

