

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-1034 of 2016

Order with signature of Judge

Mohammad Zahid Anwar
Vs.
Government of Pakistan

1. For hearing of Misc. No.4704 of 2016
2. For orders on Misc. No.4705 of 2016
3. For orders on Misc. No.4706 of 2016.
4. For hearing of main case.

15.11.2018.

Mr. Zafaruddin, Advocate for the Petitioner.
Mr. Mohammad Zahid Khan, Assistant Attorney General.
Mr. Kafeel Ahmed Abbasi, Advocate for respondent (Tax Department)

ORDER

Mohammad Ali Mazhar, J.- According to the learned counsel for the petitioner the petitioner is working in the Health Department, Government of Sindh as Team Incharge of Polio Vaccination Team. He has been nominated in FIR No.678 of 2011 lodged by Director, General of Intelligence and Investigation, FBR, Karachi. In paragraph 11.7 of the supplementary challan, it is stated that accused Mark Enterprises was nominated in the said FIR and its name is mentioned at serial No.99. It is alleged in the supplementary challan that the accused Mark Enterprises claimed inadmissible input tax on fake/flying invoices amounting to Rs.123,574,033.00 issued by the various suppliers mentioned therein who have been nominated as accused in the FIR. In paragraph No.11.8 of the supplementary challan it is further stated that the trial Court issued warrant of arrest of accused/petitioner Mohammad Zahid Anwar as owner/Director of Mark Enterprises and directed the Investigation Officer to produce the accused in Court. However, the accused/petitioner approached to the Custom and Taxation Court for pre-arrest bail which was granted on 23.11.2017. Learned counsel for the petitioner argued that neither the petitioner is the proprietor or director of the Mark Enterprises nor he was engaged in any business, therefore, the question of claiming input tax on fake or

frivolous invoices does not arise. He further argued that under the garb of this FIR salary account of the petitioner which is the only source of his livelihood has been attached in which only meager amount of his salary in the sum of Rs.28,500/- is credited on monthly basis.

2. In fact through this constitution petition the petitioner sought directions against respondents No.1 and 2 to delete name of the petitioner from the proceedings initiated for recovery of tax and to direct respondent No.3/the Manager Habib Bank Ltd. to allow the petitioner to operate his Bank Account. He has further prayed that some directions may be issued to respondents No.1 and 2 to make proper enquiries and take action against involved persons. Since the FIR has already been lodged and interim challan has been submitted in the trial Court, let the proceedings before the trial court may continue in accordance with the law. However, if the petitioner wants that proceedings against him be dropped then proper course is to file an application under Section 265-K Cr.P.C. before the trial Court for his acquittal in accordance with law. Learned counsel for the petitioner agrees that proper application will be moved before the trial Court, however, he requests that salary account of the petitioner may be released from attachment of the FBR. Learned counsel for the respondent Tax Department has no objections if the salary account of the petitioner is released from the attachment.

3. By consent, this petition is disposed of with the directions to respondent No.2 & 3 that the bank Account No.1642-00189530-01 Habib Bank Limited, Korangi No.2, Karachi in the personal name of the petitioner shall be released from attachment.

Petition stands disposed of accordingly.

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