

ORDER SHEET

**IN THE HIGH COURT OF SINDH AT KARACHI**

Spl. Sales Tax Reference Application Nos. 277 & 278 of 2019

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DATE

ORDER WITH SIGNATURE OF JUDGE

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**Haring/Priority Case.**

**Spl. STRA No. 277/2019.**

1. For orders on office objection/reply.
2. For hearing of main case.
3. For hearing of CMA No. 1774/2019. (stay)

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**12.10.2020.**

Mr. Malik Naeem Iqbal, Advocate for Applicant.

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Both these Reference Applications have been filed by the Applicant against a combined impugned Order dated 13.05.2019, passed by the Appellate Tribunal, Sindh Revenue Board in Appeal Nos. AT-49 & AT-50 of 2019.

Learned Counsel for the Applicant submits that for the present purposes, since the matter stands remanded through the impugned order, the Applicant is aggrieved only to the extent of Paragraphs-21, 22, 23 and 24, whereby, due to purported conduct of the Assistant Commissioner concerned, some adverse remarks have been recorded. He submits that the remarks so recorded are in respect of some event, which was not in Appeal before Tribunal, whereas, in view of the dicta laid down in the case reported as **PLD 2019 Supreme Court 719 (Miss Nusrat Yasmin v. Registrar, Peshawar High Court Peshawar and others)**, the proceedings, if any, against officers are to be conducted and regulated in accordance with the Service Rules, whereas, in the instant matter, an adverse order has been passed to the extent of compensating the Respondent Company. He, however, candidly submits that the officer concerned was not well aware, whereas, the order of the

Commissioner (Appeals), of which the violation has been alleged, was not in fact a restraining order; but had used the words ***“However, in the meantime it is expected that pending appeal the respondent shall refrain from recovery”***, which according to the learned Counsel was understood by the concerned Assistant Commissioner not to be a restraining order; hence recovery proceedings were continued. He submits that the concerned officer was a new entrant; was not aware of delicacy and fine interpretation of legal orders and would remain vigilant in future, and for that he has instructions to say so.

We have heard the learned Counsel for the Applicant and perused the record, whereas, no one has affected appearance on behalf of respondent. Since order itself is a remand order, we need not go into the merits of the case, whereas, on the undertaking given by the learned Counsel on behalf of the Assistant Commissioner no further adjudication of the grievance as above is to be recorded; hence, we while disposing of these References Applications observe that the concerned officer shall remain careful in future and shall not act against the orders passed by the Appellate forums, including the Superior Courts.

With these observations, the impugned order stands modified to that extent and the Sindh Revenue Board shall not initiate any disciplinary proceedings against the officer concerned on the basis of observations in the impugned order.

The Reference Applications stand disposed of in the above terms.

Judge

Judge