

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No.D-8297 of 2019

Date	Order with Signature of Judge
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1. For hearing of Misc. No.36534/2019
2. For hearing of main case

02.11.2021

Mr. Zeeshan Khan, advocate for the petitioner
Mr. Zulfiqar Ali Khan, advocate for respondent No.2
Mr. Kafeel Ahmed Abbasi, DAG along with Mr. Hussain Bohra, Assistant Attorney General

Through this petition, the petitioner sought input sales tax adjustment for the period ending 30.6.2019 in respect of the stocks available with them as the new standard regime of sales tax was introduced with effect from 01.7.2019.

We have heard learned counsel and perused the record.

Petitioner being an importer of palm oil was subjected to a special regime until 30.6.2019 as far as the liability of sales tax is concerned. The sales tax was paid at the time of import as final sales tax liability. Subsequent to this special regime, Finance Act, 2019 was introduced which brought various changes in the income tax and sales tax laws and one of the feature was sales tax in VAT mode on edible oil i.e. input tax is available for adjustment against output tax. Thus the two regimes could be reconciled if the sales tax adjustment is provided in respect of the stock which is already available as imported prior to 30.6.2019. The earlier regime was introduced in April 2006, which ended by virtue of the aforesaid Finance Act, followed by the letter of the Federal Board of Revenue (FBR) dated 29.9.2019. The FBR in addition to the above has clarified on 09.7.2019 in their letter, wherein they have clarified that the major sectors in terms of the Finance Act, 2019, were then required to charge sales tax at the standard rate of sales tax i.e. 17% with effect from 01.7.2019 on supplies. All such bulk importers were directed to submit their stock position along with their monthly sales tax and federal excise returns of June 2019 to be filed within next month on the formats then made available. Perhaps at the relevant time such automated system was not available and a manual return was allowed to be filed in terms of the order dated 20.12.2019 passed in this petition.

The Sales Tax General Order No.105/2019 dated 13.12.2019 disclosed clarity in this regard that the special procedures and other treatments of various sectors have been abolished and instead standard sales tax regime with right to equal tax adjustment have been prescribed with effect from 01.7.2019, thus the goods which have already been subjected to sales tax under the previous regime and were in stock by 30.6.2019 and to be supplied after the effected date of the standard regime would be subjected to input tax adjustment under standard regime to save the goods from double / increased incidence of tax. Several sectors have been accommodated by the FBR such as steel sector, oil and ghee sector etc., but specifically the bulk importers of edible oil were not given this fair opportunity to maintain equality. Thus STGO No.105/2019 in its true spirit be applied in the case of the petitioner in relation to a stock for which stock report has been filed in terms of FBR's letter dated 09.7.2019. The manual returns thus filed in terms of the orders of this Court shall be taken into consideration in view of the above, wherein adjustment of the stock, as mentioned above is claimed.

With these observations, the petition stands disposed of alongwith listed application.

JUDGE

JUDGE

Zahid*

