

## ORDER SHEET

*IN THE HIGH COURT OF SINDH, KARACHI*  
Spl. CrI. Revision Application No. 02 of 2014.

-----  
*Date*

*Order with signature of Judge*

-----

1. For orders on office objection and reply of the advocate at flag "A"
2. For hearing of case.

>>>><<<<

**29. 02. 2016**

Mr. Mehmood Alam Rizvi, Advocate for applicant  
alongwith Mr. Zakir Legari, Advocate.  
Mr. Muhammad Qasim, Standing Counsel.

>>><<<

Through instant Criminal Revision application, applicant seeks quashment of proceedings emanating from case No. 01/13 pending before Special Judge (Customs & Taxation) Karachi in Crime No.DC-IR/Zone-I/RTO-II/Khi/2012-13/01, under section 33 of Sales Tax Act, 1990.

At the outset, it is contended by learned counsel for the applicant that albeit he was joined as accused but no *iota* of evidence is available against the applicant much emphasize is given to order dated 11.09.2013 (available at page 157) passed on application under Section 161 (10) of the Customs Act, 1969; according to that order department filed application for discharging the accused Muhammad Jamil Qasim on the plea that he is innocent and in fact offence was committed by Nazeer Ahmed but that application was declined. Subsequently, applicant preferred application under Section 265-K Cr.P.C. but same was also dismissed by order dated 15.04.2014, being relevant paragraph No.11.15 (available at page-147 reflects as under:

*“ During investigation it was ascertained that the User ID and Password of M/s. Fabrivo Industries was hacked by some unscrupulous elements with the help and connivance of the staf/officers of Pakistan Revenue Automation (PRAL) and they subsequently filed fake monthly*

*sales tax returns and issued fake sales tax invoices to deprive the state from its legitimate revenue and Muhammad Jamil Qassim has no knowledge about the submission of monthly sales tax returns and fake invoices sold or purchased in the name of M/s. Fabrivo Industries during April 2011 to October 2012 and onward. During investigation it was detected that one Nazeer Ahmed holding CNIC No.42301-2899837-1 has fraudulently obtained Duplicate NTN 398529-1 was used by Nazeer Ahmed to open new Bank A/C No.6-1-33-20311-714-175710 in Habib Metropolitan Bank Limited, Dhoraji Colony Branch Karachi with the name and style of Duplicate M/s. Fabrivo Industries just to defraud the State and facilitate the actual fraudsters for the purpose of fake proof of payments to meet the requirements of the Section 73 of the Sales Tax Act, 1990. Thus accused Nazeer Ahmed along with its others associates of PRAL and staff of Habib Metropolitan Bank Limited, Dhoraji Colony Branch Karachi has misused the name and title of M/s. Fabrivo Industries STRN No. 1200590761473 NTN No.0258659-2 of Muhammad Jamil Qasim. Thus, Muhammad Jamil Qasim is found innocent during Investigation. Therefore, Muhammad Jamil Qasim S/o. Ibrahim Qassam holding CNIC 42201-1452534-7 Proprietor/Owner of M/s. Fabrivo Industries, Sales Tax Registration No.1200590761473 and National Tax No. 0258659-2 is recommended for discharge from the list of accused person under Section 37B (8) pf the Sales Tax Act, 1990. A full report of the case has been submitted to the immediate superior i.e. the Commissioner-IR, Zone-I, RTO-II, Karachi.”*

Learned Special Prosecutor contends that in view of department, applicant has not committed offence and during investigation it is surfaced that in fact offence was committed by Nazeer Ahmed.

Perusal of Challan and subsequent report under Section 37-B of Customs Act available at page 153, assertion of applicants are not disputed. Accordingly, instant revision application is allowed, proceedings against the applicant emanating from Crime No. DC-IR/Zone-I/RTO-II/Khi/2012-13/01 are hereby quashed.

JUDGE