

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Special Sales Tax Reference Application Nos 160 / 2019 along with
SPL. S.T.R.A. No. 312, 334, 335, 336, 412 / 2018,
SPL. S.T.R.A. No. 158, 159, 161, 185 to 190, 235 to 244, 346, 348, 356
to 364 / 2019.

Date	Order with signature of Judge
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FRESH CASE.

- 1) For orders on Misc. No. 1086/2019.
- 2) For hearing of main case.

15.03.2023.

Mr. Muhammad Aqeel Qureshi, Advocate for Applicants.
Mr. Faheem Bhayo, Advocate for Respondents.

Through these Reference Applications, the Applicant Department has impugned order dated 19.11.2018 passed in Sales Tax Appeal No. 553/KB-2017 by the Appellate Tribunal Inland Revenue of Pakistan Camp at Hyderabad proposing the following Questions of Law:-

- “1. Whether under the given facts and circumstances of the case that SRO.213(1)/2013 dated 15/03/2013 being superseded by the SRO.188(1)/2015 dated 05/03/2015; and the later being declared ultra vires of the Sales Tax Act, 1990 by the Honourable High Court of Sindh, Karachi has brought the former into force or not?.
2. Whether on the facts and circumstance of the case, Clause (e) of the judgment of the Hon'ble High Court of Sindh dated: 15.06.2016 passed in C.P No. D-8001/2015 has restored the charge/ levy of sales tax on supply of cotton seed oil and oil cake under SRO. 213(1)/2013 and Sr. No. 2 of Table-1 of the Eight Schedule of the Sales Tax Act, 1990 respectively?
3. Whether the judgment of Appellate Tribunal is consistent with the findings of the Hon'ble High Court of Sindh given in clause para(e) of the judgment dated: 15.06.2016 passed in C.P No. D-8001/2015?”

At the very outset, Respondent's Counsel submits that the impugned Show Cause Notice has been issued by placing reliance on Para 15(e) of the judgment of this Court reported as ***Messrs Insaf Cotton Ginning and Pressing Factory and Oil Mills; Vs. Federation***

of Pakistan (2016 P T D 2585); however, the said Judgment has already been impugned by the Department before the Hon'ble Supreme Court wherein, leave has been granted and the matter is pending. He submits that the Department is relying in Para 15(e) of the said Judgment whereas, Para 15(a) to (d) are yet to be complied with on the pretext that the Judgment has been impugned before Hon'ble Supreme Court. While confronted, Counsel for the Applicant is unable to assist us as to this objection.

In view of such position, we are of the considered the view that since the Department has by itself impugned the Judgment in the case of **M/s Insaf Cotton** Supra before the Supreme Court and wherein leave has been granted to them, there is no occasion for them to file these Reference Applications and press upon the proposed Questions till such time the matter is finally decided by the Supreme Court.

Accordingly, we refuse to answer the proposed Questions; hence, these Reference Applications being not maintainable are hereby dismissed. Since identical orders have been passed by the Tribunal in all connected matters and identical Questions have been proposed in those matters; this order shall apply to all cases listed before us in today's cause list at serial No. 4. Office shall place a copy of this order in all connected files.

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