

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. NO. D-4238 / 2023

Date

Order with signature of Judge

**FRESH CASE.**

- 1) For orders on Misc. No. 19519/2023.
- 2) For orders on Misc. No. 19520/2023.
- 3) For orders on Misc. No. 19521/2023.
- 4) For hearing of main case.

**04.09.2023.**

Mr. Taimur Ahmed Qureshi, Advocates for Petitioner.  
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- 1) Granted.
- 2) Granted subject to all exceptions.
- 3 & 4) Through this Petition, the Petitioner has impugned order dated 18.08.2023 passed by the Appellate Tribunal, Sindh Revenue Board at Karachi in Appeal No. 83 of 2023 and learned Counsel for the Petitioner submits that being aggrieved by an Order in Original dated 11.5.2023 the Petitioner had preferred an Appeal under Section 57 of the Sindh Sales Tax on Services Act, 2011 ("2011 Act") before Commissioner (Appeals) who passed an interim order by directing the Petitioner to avail facility as per proviso to Section 66(1) of the 2011 Act, by depositing 25% of the tax involved. Learned Counsel submits that being aggrieved, Petitioner preferred an Appeal before the Tribunal which has though reduced the quantum of 25% to 10%; however, according to him both the forums below cannot direct deposit of the amount in question as the main controversy regarding Toll Manufacturing stand decided in favour of the Taxpayer(s) in the case of ***M/s. Tufail Chemical Vs. Province of Sindh & Others (2023 PTCL 561)***, whereas, before decision of any judicial forum, such directions amounts to rendering the Appellate jurisdiction as illusory. While confronted as to exercising any discretion in the matter against interim orders of the forums below, he under instructions, submits

that for the present purposes, the Petitioner would be satisfied if the amount in question as directed by the Tribunal be permitted to be deposited with the Nazir of this Court, as otherwise, even if the Petitioner is successful in the departmental hierarchy, the amount in question would never be refunded to the Petitioner.

Contention requires consideration. In view of such position, let notice be issued to the Respondents as well as Advocate General for **25.09.2023**. In the meantime, the Petitioner shall comply with the order of the Tribunal; however, the amount in question be deposited with the Nazir of this Court by way of Pay Order / Bank Guarantee to his satisfaction within a weeks' time, whereas, the Respondents shall maintain status quo till next date of hearing.

**J U D G E**

**J U D G E**

Arshad/