

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Special Sales Tax Reference Application No. 158 of 2018

Date Order with signature of Judge

Fresh Case.

1. For order on office objection No. 18, 21 & 23.
2. For order on CMA No. 1524/18 (Ex)
3. For hearing of main case.

08.09.2023

Mr. Muhammad Aqeel Qureshi, Advocate for Applicant.

Through this Reference Application, the Applicant Department has impugned Order dated 06.02.2018 passed in STA No. 211/KB-2015 by the Appellate Tribunal Inland Revenue, proposing the following question of law:-

1. Whether Tribunal erred in law by disregarding section 21(3) of the Sales Tax Act, 1990, under which during the period of suspension of registration, the invoices issued by such person shall not be entertained for the purposes of sales tax refund or input tax credit, and once such person is blacklisted, the refund or input tax credit claimed against the invoices issued by him, whether prior or after such blacklisting shall be rejected through a self-speaking appealable order and after affording an opportunity of being heard to such person."

Heard Applicant's Counsel and perused the record. It appears that though a question of law has been proposed; however, the same is entirely dependent on a factual determination as to whether the suppliers from whom purchases were made by the Respondent were blacklisted or not. To that effect, two forums below i.e. The Tribunal as well as Commissioner (Appeals) have held that at the relevant time, the suppliers were not blacklisted; whereas, the department has not been able to establish this fact otherwise. Per settled law, it is only a question of law arising out of the order of the Tribunal which can be adjudicated upon by this Court, whereas, all factual aspects of the case are closed by at the level of the Appellate Tribunal¹.

In view of such position, we are of the considered view that no question of law arises from the impugned order; hence the proposed question being factual cannot be answered in Reference jurisdiction. As a consequence, thereof, this Reference Application is dismissed in Limine.

Let copy of this order be sent to Appellate Tribunal Inland Revenue, Karachi Bench in terms of sub-section (5) of Section 47 of the Sales Tax Act, 1990.

JUDGE

JUDGE

Ayaz

¹ Collector of Sales Tax v Qadbros Engineering Limited (2023 SCMR 939); Army Welfare Trust V Collector of Sales Tax (2017 SCMR 9); Pakistan Match Industries (Pvt.) Ltd. V Assistant Collector, Sales Tax and Central Excise (2019 SCMR 906); Commissioner of Inland Revenue, Lahore V Sargodha Spinning Mills (Pvt.) Ltd. (2022 SCMR 1082)