

# **IN THE HIGH COURT OF SINDH, KARACHI**

Constitution Petition No.D-1571 of 2021 along with  
Constitution Petitions Nos.D-4451 & 4649 of 2020, 1572, 1674,  
1675, 1676, 1677, 1935 & 3349 of 2021

Date

Order with signature of Judge

Present: *Mr. Justice Muhammad Junaid Ghaffar*  
*Mr. Justice Mohammad Abdur Rahman*

Petitioners in all Petitions : M/s. Sultan Muhammad Tyre;  
M/s. A.M. Corporation;  
M/s. Seven Star Tyres;  
M/s. Dhanani Enterprises;  
M/s. Seven Star Old and New Tube & Tyre;  
M/s. Myco Corporation;  
M/s. Marium Impex;  
M/s. Tyre Master;  
M/s. Tyre Sales Corporation; and  
M/s. Global Tire Corporation  
Through Mr. Aqil Ahmed, Advocate.

Respondent in CP No.D-1571, 1572, 1674, 1935 of 2021 : MCC Appraisement & Facilitation-West  
Through Mr. Mirza Nadeem Taqi, Advocate.

Respondents in CP No.D-4451, 4649/2020 & 3349/2021 : Collector of Customs  
Through Mr. Pervaiz Ahmed Memon,  
Advocate.

Respondent No.3 in CP No.D-1675/2021 : The Chief Commissioner Inland  
Revenue, RTO-I  
Through Mr. Touqeer Ahmed Seehar,  
Advocate.

Other Respondents : Through M/s. Aqeel Ahmed Qureshi, Wahid  
Bux for Syed Shafqat Ali Shah and  
Hafeezullah, Advocates.

Federation of Pakistan : Through Mr. Kashif Nazeer, Asst. Attorney  
General

Date of Hearing : 02.09.2024

Date of Judgment : 02.09.2024

## **J U D G M E N T**

**Muhammad Junaid Ghaffar, J:** Through these Petitions the  
Petitioners have sought following relief: -

- a) *Declare that levy of GST by the Respondents No.2&3 and their subordinates at the rate of 110% of Assessed Value on the goods of Third Schedule having Retail Price printed is illegal and arbitrary;*

- b) *Direct the Respondents No.2&3 to follow the directions given in STGO/Letter/Circular while assessing the GST on the goods of Third Schedule having Retail Price printed;*
- c) *Direct the Respondents No.2&3 not to encash the deposited pay orders of differential amount till finalization of instant petition.*

2. Learned counsel appearing on behalf of the Petitioners submits that pursuant to Finance Act, 2019, Section 3(2)(a) of the Sales Tax Act, 1990 has been amended which now requires that sales tax shall be charged on *ad val* basis on the printed retail price of the imported goods and such goods shall be assessed on the basis of declared retail price and not on the basis of customs value under Section 25 of the Customs Act, 1969. According to him, for implementation of this provision, a budget guideline was issued by FBR on 08.07.2019 and Para 6 thereof, requires the Collector of Customs to follow and implement the said amendment. Per learned counsel, despite this, respondents demanded the sales tax on the imported goods based on Sales Tax General Order No.103/2019 dated 07.08.2019, which according to him, is not applicable inasmuch as the petitioners' goods have the retail price printed, whereas STGO No.103/2019 was issued to facilitate those importers, who had failed to make compliance of the above provisions of law. However, during arguments we have confronted the petitioners' counsel to show us from the record that retail price was printed on the imported goods and the petitioners had complied with Section 3(2)(a) of the Act and in response, he has taken us to page-25 of C.P. No.D-1571/2021, which is the Customs Examination Report. On perusal of the same it does not reflect that the retail price was printed on the goods in question and when again confronted, petitioners' counsel could not satisfactorily respond. He was further directed to show us any document on record including any photographs of the goods taken at the time of inspection/examination by the

Customs Department showing printing of the retail price and he has not been able to refer any material on record.

3. Since it is not established from the record that the retail price was printed on the goods in question, therefore, the prayer sought in these petitions is contradictory to the stance of the Petitioners; hence, cannot be granted and in that case, Para 2(ii) of STGO No.103/2019 can be applied for the purposes of charging sales tax on the retail price.

4. In view of hereinabove facts and circumstances of the case, since no documentary evidence has been placed on record to substantiate the petitioners' own stance, we do not see any reason to exercise our discretion; hence all listed petitions, being misconceived, are hereby dismissed along with listed applications.

**J U D G E**

**J U D G E**

Farhan/PS