

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Spl. STRA No. 104 of 2024

---

Date	Order with signature of Judge
------	-------------------------------

---

- 1) For orders on office objection No.27.
- 2) For regular hearing.
- 3) For hearing of Misc. No. 2058/2024.
- 4) For hearing of Misc. No. 2059/2024.

**09.09.2024.**

Mr. Raja Qasit Nawaz, Advocate for the Applicant.  
Mr. Ameer Bukhsh Metlo, Advocate for Respondent.

---

Through this Reference Application, the Applicant has impugned order dated 01.07.2024 passed in Sales Tax Appeal No. No.444/KB/2024 by the Appellate Tribunal Inland Revenue, Karachi, proposed the following questions of law:

- I. Whether the alleged pre-suspension notice, as mentioned in the Impugned order, was served upon the taxpayer under section 56 of the Sales Tax Act 1990? If not, does the Impugned Order suffer from factual misreading and error floating on the face of the record?
- II. Whether non-issuance of a mandatory show cause notice within seven days of the suspension order render the Suspension Order dated 06.05.2024 void ab initio under rule 12(a)(vi) of the Sales Tax Rule 2006?
- III. Whether response from the taxpayer can be sought afresh by the Commissioner without issuing the mandatory show cause notice and after expiry of the mandatory seven-day period, as provided under rule 12?
- IV. Whether directions contained in paragraph 7 of the Impugned Order to furnish necessary details within one week override mandatory time frame contained in Rule 12(a)(vi) of the Sales Tax Rules 2006 which expiry?
- V. Whether under the facts and circumstances of the case, Respondent no.1 was justified to uphold the order of the Commissioner without dilating upon the issues involved and giving its own reasons, as required under Section 24-A of the General Clauses Act, 1897?"

Heard the Learned Counsel for the parties and perused the record. The applicant is aggrieved by suspension of its Sales Tax Registration and apparently, the impugned order, is in fact a remand order and ordinarily we are not required to exercise jurisdiction in such matters, whereas the

Department's Counsel has also objected as to the maintainability of this Reference Application. However, in the peculiar facts and circumstances of this case, whereby the learned Tribunal while remanding the matter, has given various directions to the concerned officer for examining the entire record, including invoices issued by the blacklisted / suspended suppliers based on which the sales tax registration has been suspended, we deem it appropriate to over-rule this objection and exercise our jurisdiction. The Tribunal's order depicts that on the one hand the Applicant has been non-suited on the ground that the Applicant had claimed input tax of invoices from suppliers who were suspended / blacklisted, but at the same time has remanded the matter with various directions to the concerned officer. This does not seem to be a correct approach as the Applicant is remediless insofar as his business and restoration of its Sales Tax Registration is concerned. A remand order in this situation when the Tribunal itself was not satisfied as to the inquiry conducted by the department is not proper and justified.

In these facts and circumstances, the Tribunal ought to have restored the Sales Tax Registration on its own while remanding the matter, which we are compelled to do so, whereas, besides this, no useful purpose will be served by answering the proposed questions.

Accordingly, the suspension order dated 06.05.2024 available at Page 37 is hereby suspended and the Sales Tax Registration is restored with further directions to the concerned Officer to proceed further as already directed by the Tribunal. This Reference Application is disposed of.

**J U D G E**

**J U D G E**

Nasir/