

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

**Special Sindh Sales Tax Reference Application No. 60 of 2018
along with S.S.S.T.R.A. Nos.872 of 2017, 113, 114 & 63 of 2018
AND 421 & 65 of 2019**

Date

Order with signature of Judge

HEARING / PRIORITY CASE:

1. For hearing of main case.
2. For hearing of CMA No.328/2018.

Dated; 22nd October 2024

M/s. Malik Naeem Iqbal, Malik Waseem Iqbal and Saleem Khaskheli, Advocates for Applicant/ Sindh Revenue Board ("SRB")

M/s. Tariq Masood, Fahad Hussain and Rana Sakhawat Ali, Advocates for SRB in SSSTRA No.____

Mr. Salman Aziz, Advocate for SRB in SSSTRA No.114/2018.

M/s. Jam Zeeshan Ali and Shaheer Roshan, Advocates for Standard Chartered Bank & HBL a/w Mr. Sami-ur-Rehman, Advocate.

M/s. Lubna Pervez and Shafqat Zaman, Advocates for Allied Bank Ltd.

Mr. Anwar Kashif Mumtaz, Advocate for Silk Bank Ltd.

M/s. Tariq Masood, Fahad Hussain and Rana Sakhawat Ali, Advocate for Respondents.

- *_ *_ *_ *_ *_ -

In all these Reference Applications some common questions of law are involved and after hearing the learned counsel for the parties on 23.09.2024, following order was passed: -

"Dr. Muhammad Tariq Masood, learned Counsel for SRB has made part submissions. However, after hearing of arguments his arguments and the arguments made on the last date of hearing by Malik Naeem Iqbal on behalf of SRB, it has transpired that the forums below, including the original authority have decided the issue in respect of levy of sales tax on home remittances and bank assurance pertaining to various tax-periods involving different / amended provisions of the same law i.e. up to 2013 and thereafter, jointly / together, without any independent separate and finding as to the said provisions, i.e. pre and post amendment. In that case, this Court under its Reference Jurisdiction is not in a position to answer the proposed questions of law.

When confronted as to why not these matters be remanded to the Original Authority for passing orders afresh by dealing with the said provisions of law independently, learned Counsel appearing for SRB requests for a short adjournment.

*At their request, adjourned to 09.10.2024 at 11:00 a.m.
Interim order passed earlier to continue till the next date.”*

2. Thereafter, the matters were taken up on 09.10.2024 and the following order was passed: -

*“In response to our Order dated 24.09.2024, though certain submissions have been made by the learned Counsel for the Sindh Revenue Board. However, we are of the tentative view that the matters are still to be remanded to the Original Authority; but with some guidelines as to the final determination of the issues in hand. We direct the learned Counsel for the Sindh Revenue Board as well as for taxpayers to assist us on the next date with proposed questions, which are to be decided after remand of the proceedings. For such purposes to come up on **22.10.2024 at 11:00 A.M.** Interim order, passed earlier to continue till the next date of hearing. Office to place copy of this order in the connected Reference Applications.”*

3. Insofar as remand of the case(s) to the Adjudicating Authority is concerned, none has objected; however, in compliance of the above orders, today, all the learned counsel appearing on behalf of the respective parties have filed their respective questions of law, which according to them, are to be addressed by the Adjudicating Authority. The same are taken on record; however, in our considered view, it would not be appropriate to restrict the Adjudicating Authority to address only these questions; therefore, we are not making them a part of our order.

4. Accordingly, by consent all these Reference Applications are disposed of by setting aside the respective order(s) of the forums below, including the Tribunal and the matters stand remanded to the respective Adjudicating Officer(s) with the following directions: -

- i. The Show Cause Notice(s) already issued to the taxpayers shall be deemed to be pending before the Adjudicating Authority and shall be decided independently / separately in respect of levy of sales tax on home remittances and bank assurance pertaining to various tax-periods involving different / amended provisions of the same law i.e. up to 2013 and thereafter, with independent /

separate findings as to the said provisions, i.e. pre and post amendment.

- ii. The adjudication(s) shall be done separately and independently in respect of different tax periods involved and the amendment(s) in law introduced in the year 2013. This means that, if there are different periods involved and different notice(s) have been issued, then separate order(s) are to be passed for tax periods prior and after 2013. However, if one single Show Cause Notice has already been issued, then the same order may contain separate findings as to the different periods as above.
 - iii. Question of limitation, if any, shall also be addressed if so, raised by any of the taxpayers.
 - iv. In addition to the above, if any other legal point is involved and so raised by the taxpayers, same shall also be considered in accordance with law.
 - v. The taxpayers may file any additional reply to the Show Cause Notices already issued, whereas the taxpayers shall be given opportunity of being heard.
5. All these Reference Applications stand **disposed** of in the aforesaid terms. Let copy of this order be issued to Sindh Revenue Board for compliance, whereas the above exercise may be carried out expeditiously as these matters are pending before this Court since 2017.

JUDGE

JUDGE

Farhan/PS