

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Special Sales Tax Reference Application No.134 of 2024

Date

Order with signature of Judge

Hearing/ Priority case

- 1) For hearing of main case
- 2) For hearing of CMA No.2768 of 2024 [Stay Application]

23.04.2025

Mr. Shahid Hussain, Advocate for Applicant
Mr. Pervez A. Memon, Advocate for Respondent

Through this Reference Application, the Applicant has impugned Order dated 03.07.2024 passed in STA No.749/KB/2023 by the Appellate Tribunal, Inland Revenue Karachi proposing the various Questions of law; however, there are only two Questions which are relevant for the present purposes i.e. Questions 'A' & 'C' which reads as under:-

- "A. Whether under legally correct the facts and circumstances of the case, the learned ATIR was right in not taking into consideration the provisions of section 21(3) of the STA, 1990 while confirming the disallowance of input tax u/s 73 of the STA, 1990 with respect to vendors black listed subsequent to transaction with them for the tax period from September, 2016 to September 2020 in the order himself.?
- C. Whether under the facts and circumstances of the case, the learned ATIR was justified while not deciding the case on grounds of limitation of time u/s 11(5) of the STA as the order passed after 120 days from issuance of notice without any extended time by Commissioner Inland Revenue as prescribed under the law?"

2. Insofar as, proposed Question No.A is concerned, the same now stands answered by the Hon'ble Supreme Court of Pakistan in the case of ***Eagle Cables (Pvt.) Ltd.***¹, whereby, it has been held that the claim of input tax cannot be denied when at the relevant time, the supplier was not suspended or blacklisted, notwithstanding the fact that subsequently such supplier was suspended or blacklisted. The relevant finding of the Hon'ble Supreme Court reads as under:-

¹ Vide its Order dated 16.01.2025 passed in C.P.L.A No.2400-L/2022 (The Commissioner Inland Revenue Lahore versus M/s. Eagle Cables (Pvt) Ltd., Lahore,

“5. An examination of the records lends credence to the position taken by the respondent. The petitioner has failed to provide any concrete evidence indicating that invoices were issued to the respondent during any period of suspension or blacklisting. It is therefore admitted on all hands that at the time the purchases were made, the supplier involved were neither blacklisted nor inactive. Furthermore, the payments for these purchases were processed through a legitimate banking channel, adhering to the procedures delineated in section 73 of the Act. It is now well established in legal precedents that if a transaction is conducted while the suppliers are active and duly registered, any invoices issued are not automatically invalidated by a subsequent blacklisting or suspension of those suppliers. Therefore, it follows that the denial of refunds cannot be justified solely based on the later blacklisting of a supplier. In light of this context, according to sub-section (3) of Section 21, all purchasers, including the respondent, who procured goods before the suppliers’ registration was suspended or they were blacklisted, and who complied with the conditions outlined in section 73 of the Act, were entitled to claim an adjustment of input tax.”

3. Accordingly, in view of above judgment of the Hon’ble Supreme Court, the input tax claim cannot be denied and therefore proposed Question No.’A’ is answered in favor of the Applicant and against the Respondent and in view of this proposed Question No.’C’ need not to be answered. Consequently, thereof, the orders passed by the forums below are hereby **set-aside**. This Reference Application is **allowed**. Let a copy of this order be sent to the Appellate Tribunal Inland Revenue of Pakistan, Karachi Bench in terms of subsection (5) of Section 47 of the Sales Tax Act, 1990.

ACTING CHIEF JUSTICE

JUDGE

Qurban/PA*