

**ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI**

C.P. No.D-1600 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGES
<u>Hearing</u>	

1. For orders on office objection No.1 & 2
2. For hearing of CMA No.8010 of 2025
3. For hearing of main case

12.05.2025

M/s. Abdul Rahim Lakhani, Atta Muhammad Qureshi and
Suneel Ali Memon, Advocate for Petitioner

Dr. Shahnawaz Memon, Advocate has filed Vakalatnama and comments on behalf of concerned Commissioner which are taken on record, copy whereof has been supplied to Petitioner's Counsel.

Heard and perused the record. Through this petition, the Petitioner has impugned Order dated 17.02.2025 passed under Section 21(5) of the Sales Tax Act, 1990 and the operating part of the said Order, reads as under:

"9. In view of the above narrated facts, and in exercise of the powers conferred upon me under section 21(5) of the Sales Tax Act, 1990, read with Rule 12 of the Sales Tax Rules, 2006, notified vide SRO 555(I)2006 dated 05.06.2006, the impugned blacklisting order is remanded to the pre-blacklisting stage, with the direction to re-adjudicate, reassess the facts, and pass a speaking order strictly in accordance with the law, after providing the registered person an opportunity to be heard. The registered person shall join the hearing and submit his reply, along with all documentary evidence, to Commissioner-IR, Zone-III, MTO, Karachi."

From perusal of the aforesaid Order, it appears that the Chief Commissioner has though remanded the matter to Commissioner, Inland Revenue, Zone-III, MTO, Karachi, having jurisdiction; however, while doing so, the Chief Commissioner has not passed any order in respect of suspension of the Sales Tax Registration of the Petitioner; rather, it has only been observed that it is remanded back to pre-blacklisting stage in terms of Section 21(5) of the Sales Tax Act, 1990. It further appears that the ground which has prevailed

upon the Chief Commissioner in remanding the matter is that the suspension and blacklisting order was issued ex parte, and the registered person was unable to present his arguments during the proceedings. In that case the Chief Commissioner ought to have set-aside both the orders i.e. suspension and blacklisting. It may further be observed that first a suspension order is passed in terms of section 21 *ibid*; and thereafter blacklisting. If the blacklisting order is no more in field as per the order of the Chief Commissioner being ex-parte, then how a suspension order can still remain in field on the same set of facts. We are completely at a loss to comprehend this stance of the Respondents.

It may be of relevance to observe that the Chief Commissioner has been conferred with Revisional Authority, whereas, at the same time, the only right of appeal provided against such orders has been omitted vide Finance Act, 2024, and now the aggrieved person cannot approach the Appellate Tribunal Inland Revenue against such orders. In that case the Revisional Authority is required to act judiciously and apply its mind inasmuch as when the matter is being remanded; orders impugned therein cannot remain in field and must be set-aside in totality.

In view of such position, the suspension Order dated 21.08.2024 as well as the blacklisting Order dated 09.09.2024 stand **set-aside**; this petition is allowed to that extent, whereas the Commissioner may continue with the pending proceedings and shall pass an appropriate order in accordance with law after affording an opportunity of hearing to the Petitioner.

With these observations, this Petition is allowed along with pending application(s).

ACTING CHIEF JUSTICE

JUDGE

