

IN THE HIGH COURT OF SINDH, KARACHI

Before:-

Mr. Justice Ahmed Ali M. Shaikh, C.J.
Mr. Justice Mohammed Karim Khan Agha, J.

Petition No. and name of petitioner along with counsel.

1. C.P. No.D-6262 of 2017 Abdul Wahid V National Accountability Bureau (NAB) through Chairman & others.
Abdul Wahid Father of Muhammad Anfal (petitioner), through Mr. Khalid Javed Khan, Advocate.
2. C.P. No. D-2717 of 2017 Zubair Farid Tufail & others V National Accountability Bureau (NAB) and others.
Zubair Farid Tufail s/o. Late Muhammad Tufail (petitioner)
Through Dr. Muhammad Farogh Naseem, Advocate.
3. C.P. No. D-7975 of 2017 Kashif Naseer V National Accountability Bureau (NAB) through Chairman & others.
Kashif Naseer son of Naseeruddin (petitioner) through Ms. Fouzia Rasheed, Advocate.
4. C.P. No. D-8048 of 2017 Abdul Rauf Nasir V National Accountability Bureau (NAB) through Chairman & others.
Abdul Rauf Nasir son of Abdul Majid Nasir (petitioner)
Through Mr. Naveed Baluch, Advocate.
5. C.P. No. D-6301 of 2017 Majid Ali V National Accountability Bureau (NAB) through Chairman & others.
Majid Ali son of Wajid Ali (petitioner) Through Mr. Shahab Sarki, Advocate.
6. C.P. No. D-7441 of 2017 Anees V National Accountability Bureau (NAB) through Chairman & others.
Anees son of Zakria (petitioner) Through Mr. Nisar Ahmed Tarar, Advocate.

Counsel for the Respondents.

Mr. Yasir Siddique, Special Prosecutor, NAB.

Dates of Hearing: 08.02.2018 and 13.02.2018

Date of Order: 23.02.2018

ORDER

Mohammed Karim Khan Agha, J: By this common order we propose to dispose of the above petitions filed by the above mentioned petitioners. Some of the petitioners have applied

for post arrest bail whilst other petitioners have applied for the confirmation of their pre arrest bail which was granted to them earlier through various orders of this court.

2. The brief facts of the case are that the National Accountability Bureau (NAB) received a source report against proprietors of different registered companies who in connivance with officials of the Inland Revenue Service (IRS) had received illegal refunds of sales tax against fake/flying invoices by misusing SRO No.549 (1) 2008 dated June 11th 2008 and SRO No.68 (1)/2009 dated 27-01-2009.

3. After carrying out an inquiry which was later converted into an investigation the NAB collected sufficient material, against Anfai proprietor of M/S Al Falah Impex (Impex) which was aided and abetted by other companies (who provided fake and flying invoices to Impex) who in connivance with named IRS officers, established that the IRS officials by misusing their authority/failing to exercise their authority had in connivance with Impex which was aided and abetted by other companies illegally benefited Impex by enabling Impex to obtain illegal sales tax refunds through the use of fake and or flying invoices which caused a loss of tens of millions of rupees to the national exchequer and justified the filing of a reference against Impex, aider and abettor companies and IRS officials on account of corruption and corrupt practices under S.9 of the National Accountability Ordinance 1999 (NAO) and accordingly **reference No.25/2017 State v Anfai and others** was filed before the accountability court in Karachi against the petitioners and other co-accused on 27-10-2017. **According to the reference the total loss caused to the national exchequer through the illegal actions of the accused in the reference amounted to RS 120.1 million.**

4. Through the reference as per para 39 which is set out below it was established that;

"39. That in view of the above, it has been established that M/s. Al-Falah Impex was non-existent manufacturing unit. It was shown registered in the names of accused No.1 (Anfal) just to obtain illegal Sales Tax Refund. Accused **Tehsin Salim (deceased), the then Inspector IRS issued False Verification Report** of the non-existing unit of M/s. Al-Falah Impex which led to issuance of illegal Sales Tax Refund. Accused No.7, Faizan (one of Anfal's brothers) one of the beneficiary of the illegal Sales Tax Refund. Accused No.1 & 2 (Anfal and his brother Muhammad Umair) in connivance with accused No.8 to 21 (proprietorships/companies) managed fake / flying invoices and other fake / bogus documents using accounts of accused No.22 to 25 which were forwarded, processed and sanctioned by accused No.3 to 6 (IRS officials) which resulted in causing loss of **Rs.94.6 Million** to National Exchequer and obtained illegal benefits amounting to **Rs.25.5 Million** besides this loss. Also accused No.3 obtained illegal gratification against sanction of illegal sales tax refund and accused No.26 was benamidar of accused No.3. Hence accused No.1 to 26 in connivance with each other caused loss of Rs.120.1 Million, to the national exchequer along with consequential gain derived by them in this process. Thus they have committed the offence of corruption and corrupt practices as defined under Section 9(a) of the National Accountability Ordinance, 1999 punishable under Section 10 of the Ordinance and Schedule thereto".

5. In essence the reference divides into three categories of accused. Firstly the main beneficiary (Impex), secondly the government officials (IRS/FBR) and thirdly those companies who aided and abetted Impex through providing fake and/or flying invoices in return for a commission on the illegal fake and/ or flying sales tax invoices which they gave to Impex which enabled Impex to make the illegal sales tax refund claims.

The case of Impex

6. **Turning to the case of petitioner Anfal proprietor of M/S Al Falah Impex.** He is the alleged main beneficiary of illegal sales tax refunds to the tune of **Rs.94.567 Million** and the main accused, along with his brother accused No.2 (Muhammad Umair who has absconded) in the reference

(which in essence involves a sales tax scam perpetuated by Impex, other companies (aiders and abettors) who provided Impex with fake and/or flying invoices in return for commissions and IRS officers which enabled Impex to claim massive illegal sales tax refunds) and very specific allegations have been made against him in the reference in the following terms at Para's 12,13 and 11:

"12. That the investigation revealed that the **accused No.1, Anfal** has got registered non-existing manufacturing unit in FBR on the basis of fake documents. He also opened bank accounts to obtain sales tax refund for his so-called manufacturing unit. He submitted bogus tenancy agreement and fraudulently declared address of location which was never possessed by him on rental / owner basis. Being proprietor of M/s. Al-Falah Impex, he availed illegal sales tax refund on fake / flying invoices on the manufacturing of zero rated supplies **causing loss to national exchequer to the tune of Rs.94.567 Million.**

13. That, the investigation revealed that the **accused No.2 Muhammad Umair is brother of accused No.1.** He used to arrange flying invoices from different suppliers and managed layering and rotation of funds for disposal of illegal refund amount as well as for deceiving FBR authorities regarding monitoring of compliance of Section 73 of Sales Tax Act-1990.

11. That, the investigation revealed that:

- i. M/s. M/s. Al-Falah Impex (STRN: 1704999820573) was registered as manufacturer of Plastic Goods in the name of **accused No.1 Anfal** s/o. Abdul Wahid which never existed. Fake agreements and bogus documents were used to reflect offices of firm at different locations;
- ii. No plastic manufacturing was carried out which is evident from the fact that neither electricity consumption was highlighted nor any power generating equipment was installed at so-called premises of Al-Falah Impex (CI-64, Sector 12, North Karachi Industrial Area.)
- iii. Flying invoices of different supplier were used for input tax against which illegal refund was claimed which were **arranged by accused no.2 Muhammad Umair who is also brother of accused no.1.**

- iv. **Statement of Approver Muhammad Zaheer also recorded which stated that flying invoices of PMC were issued at the rate of Rs.80-100 which he supplied to accused no.1 and 2.**
- v. 06 accused who issued invoices of 7 firms, on the basis of which Rs.14.547 Million were obtained as illegal sales tax refund have accepted their guilt of issuing / selling flying invoices out of which 01 is accepted by court and other are in process of approval / disposal.
- vi. Rs.3.422 Million of sales tax refund was obtained on the basis of fake invoices of M/s. Rasasi Traders and M/s. Interactive Technology Gateway while both are non existent and bogus firms.
- vii. Pecuniary advantages were taken by accused no.3 Iqbal Ahmed Magsi in the shape of illegal gratification for purchase of Plot No.430-D and 432-D, 18th Street DHA Phase VIII, Karachi by **M/s. Al-Falah Impex , in-lieu of sanction of illegal refund claims.**
- viii. Rs.82.767 Million out of Rs.94.6 Million of total refund claim by M/s. Al-Falah Impex were credited through Government treasury instruments into Account No.6-1-13-20311-714-179219 of HMB Dhorajee Branch Karachi.
- ix. Rs.11.8 Million out of Rs.94.6 Million of total refund claim by M/s. Al-Falah Impex were credited through Government treasury instruments into Account NO.5250201145501 Bank Al-Falah Limited Dhorajee Branch Karachi.
- x. **Out of Rs.11.8 Million Rs.11.4 Million was immediately transferred to M/s. Al-Faizan International Bank Account operated by Faizan s/o. Abdul Wahid brother of Accused No.1 and 2.**
- xi. **Payments of Al-Falah Impex were routed through Proprietors own bank accounts or their employees bank accounts which were transferred back to these firms by Al-Falah Impex to prove bogus supplies as genuine in record of FBR. Actually no supplies were made to M/s. Al-Falah Impex by any of the firms.**
- xii. M/s. Al-Falah Impex bank accounts were also used for money laundering, illegal refund and layering of other funds

- xiii. **Neither relevancy of input with the output was checked by the accused No.3 to 6 nor any suspicion was raised by them despite the fact that multiple invoices were issued in single day or daily invoices in series was generated by various suppliers which should have raised suspicion by seeing at a single glance. (bold added)**

7. In support of the above allegations various tables have been set out in some paragraphs of the reference which are not set out again in this order in order to avoid repetition but can be found by referring to the reference itself.

8. **Learned counsel for the petitioner Anfal proprietor of M/S Al Falah Impex** submitted that the petitioner was a genuine manufacturer of plastics and was entitled to the Sales tax refunds which he had claimed and that there was no question of any of his invoices being bogus. In support of his contentions he showed that he had an office address for his company and a separate address for his manufacturing business. In this connection he referred to agreements in each case along with correspondence which had been sent to him by the FBR and which he had received at such addresses and FBR reports showing that his manufacturing units were operational. The fact that his electricity bills were low he put down to load shedding and the fact that he had been running his manufacturing unit through his own personal generator. As such there was no material to connect to him to the offense for which he had been charged in the reference and for all the above reasons he was entitled to post arrest bail.

Turning to the case of the Government officials.

9. **Learned counsel for petitioner Abdul Rauf Nasir** who was the sanctioning officer of sales tax submitted that he was completely innocent; that it was not his function to check the genuineness of claims; that all the claims went through the automated STARR system which checked the validity of any claims and that he simply signed off on such claims if they

had been validated by the STARR system and as such there was no wrong doing on his part as the STARR system had validated all the claims which were subject matter of this reference and as such there was no material against him and he was entitled to post arrest bail on merits. He also belatedly contended that he was entitled to bail on medical grounds and referred to a number of doctor's certificates in this regard. In support of his contentions he placed reliance on **Rule 29.4 of the sales tax rules and the cases of Mohammed Saeed Mehdi V State** (2002 SCMR 282) and **Mohammed Amin Quershi V State** (2007 P.Cr.LJ 105)

10. **Learned counsel for the petitioner Kashif Naseer** who was the processing officer of sales Tax essentially made the same arguments as petitioner Abdul Rauf Nasir above and relied on Rule 29 (Supra). According to her once the STARR report indicated that the claim was valid the petitioner had neither any obligation nor power not to approve the sales tax refund and if any officer had such authority/powers it was petitioner Abdul Rauf Nasir named above who was the sanctioning officer; that this was a pick and choose exercise by NAB as some of the other IRS officials involved in the scam had been let off. As such for all the above reasons the petitioner was entitled to post arrest bail.

Aiders and abettors and benamidars.

11. **Learned counsel for petitioner Zubair Tufail** who was on pre arrest bail and was also the proprietor of Interplast (pvt) limited submitted that he was completely innocent of any wrong doing and that he had paid sales tax as per the concerned SRO; that as per sales tax law he could have no liability as over 5 years had passed and there were no records of his transactions; that the offense had been committed by his employees Nisar Ahmed Vohra, Abid Rahim and Muhammad Azeem (accused No.22, 23 and 24 in the reference) who unknown to him had entered into a private business to sell the lower grade quality materials which he

was completely unaware of and they had even admitted their liability and had applied to NAB to accept a plea bargain on account of their guilt which remained under consideration; that all his invoices were genuine; that he has not issued any flying invoices and that he had no control over what any other person such as Impex was doing with his invoices and as such this was a case of further inquiry. With regard to malafide he submitted that this was floating on the face of the record by NAB not having any incriminating material against him yet they choose to malafide add him to the reference. Thus, for all the above reasons he submitted that he was entitled to the confirmation of his pre arrest bail. In support of his contentions he placed reliance on **Syed Muzaffar Ali V Chairman NAB** (2015 P.Cr.LJ 1569), **Ali Shan v Director of Intelligence and investigation (IRS) Karachi** (PTD 2016 2648) and the unreported case of **Jameel Akhtar and others V Chairman NAB** (CP.D 1770/16) dated 13-12-2017 passed by a DB of this court.

12. **Learned counsel for petitioner Anis** who was the proprietor of Al Ubaid Enterprises and was on pre arrest bail submitted that he was completely innocent; that he had not issued any illegal sales tax invoice and as such had not abetted Impex in obtaining RS 2.4 m illegal sales tax refund and as such he was entitled to the confirmation of his pre arrest bail.

13. **Learned counsel for petitioner Majid Ali** who was on pre arrest bail submitted that he had played no role in the alleged sales tax scam. That he had nothing to do with Impex, any of the aider and abettor companies and was not a government sales tax official. He had wanted to buy a house but did not have the full amount of the purchase price and thus had asked his uncle Iqbal Ahmed Magsi who is an IRS official and accused No.3 in this reference for a loan. Such loan was given to him and he was completely unaware of the source of such loan (which documents showed had come from

Impex/petitioner No.1) and thus he was completely innocent of any wrong doing. According to him at best he could be regarded as a benamidar of accused Iqbal Ahmed Magsi who has since absconded. He claimed that the malafide of the NAB was including him in the reference in the first place and as such for all the above reasons he submitted that his pre arrest bail should be confirmed.

14. On the other hand NAB strongly opposed the grant of both post arrest bail and pre arrest bail to all the petitioners and contended that there was more than sufficient material on record to show that all the petitioners were connected with the offenses for which they had been charged and took the court through various S.161 Cr.PC statements and other relevant documents and as such both the petitioners respective petitions for post arrest bail should be dismissed and the orders granting some of the petitioners ad interim pre arrest bail should be recalled as the case may be.

15. We have considered the submissions of learned counsel for the parties, carefully perused the material available on record and the case law cited at the bar.

General.

16. We would also like to make it clear that the findings in this order are only based on a tentative assessment of the material available on record and shall have no bearing on the trial which shall be decided on merits, based on the evidence placed before the trial court.

White collar crimes

17. At the outset, as we have done before in other similar NAB cases, we observe that cases of white collar crime are generally of an intricate and complex nature and the whole transaction and each component part of the scam needs to be viewed in a holistic manner and not in isolation. This is

because in most cases the offence could not be committed without the active involvement of all the accused in the chain of events which lead to the commission of the offense. However, notwithstanding this observation it is settled law that in cases of bail each of the accused needs in some way to be connected with the alleged offense through a specific role and in the case of non bailable offenses such as this there are reasonable grounds for believing that the accused is connected with the commission of the offense for which he is charged.

18. The current case, as with many NAB cases, is more a case of a joint criminal enterprise whereby every accused plays their role in order to achieve a criminal objective all of which they were aware of and could not have been achieved without the active participation of all involved.

19. In this sales tax scam case it appears that the claimant was Anfal/Impex (the main accused) who obtained illegal sales tax refunds based on the fake and /or flying invoices provided by the other proprietorship co-accused most of who have entered into PB's and thereby have admitted their guilt and thus this sales tax scam could not have taken place without their active involvement as aiders and abettors. Likewise is the case of the IRS/FBR co-accused who willfully failed to exercise their authority in failing to check obvious and glaringly suspicious cases of sales tax refund which would have stood out to such experienced and senior officers. **In essence with out the active involvement and connivance of all accused in this reference the Sales tax scam carried out by Anfal/Impex could never have taken place.**

20. The accused in this case all claim that they are entirely innocent and not connected to the offence in any way. Without going into a deep appreciation of the material on record it would appear that through the reference,

investigation report and material collected by NAB which we have scanned that nearly all of the accused to a greater or lesser extent are connected to the commission of the alleged offence. It is more a question of degree.

21. With regard to the Government officials (sales tax officials) we have also taken into consideration that they are paid and employed to serve the State/Province out of tax payers money and have a special duty to fiercely protect and safe guard the tax payers money and not enable it to be illegally misappropriated through corruption in performing their duties/functions.

22. In the case of **The State V Haji Kabeer Khan** (PLD 2005 SC 364) the supreme court observed that it would exercise its discretionary powers to grant pre arrest bail in NAB cases **in rare and exceptional circumstances** in the following terms at P.372 Para 9.

“Now turning towards the case arising out of Writ Petition No.20214 of 2002 wherein respondent had sought bail before arrest in Reference No.38 of 2002. **It is to be noted that under the NAB Ordinance there is no provision for grant of bail before arrest, therefore, this Court while examining the vires of 9(b) of the NAB Ordinance in the case of Khan Asfandiyar Wali (ibid) took view that High Court shall exercise this power sparingly in rare and exceptional circumstances for valid reasons to be recorded in writing.** In this behalf reference can also be made to the case of Meeran Bux v. The State PLJ 1986 (sic) 526 and Murad Khan v. Fazal-e-Subhan and another PLD 1983 SC 82. **As such we are of the opinion that the powers for grant of bail conferred by this Court has to be exercised strictly keeping in view the observation made therein.**(bold added)

23. The same position remains today for offenses of corruption charged under the NAO (white collar crimes) where the Hon'ble Supreme Court in the recent case of **Rai Mohammed Khan V NAB** (2017 SCMR P.1152) has emphasized that the **grant of bail in such cases must be construed strictly and rigidly** even if, as in that case

referred to above, the amount involved was on the lesser side being only approx RS 12M **(as opposed to over RS one billion in this case)** in the following terms at P.1154 para 7;

"Under the principle of law and justice, each bail petition is to be decided on its own merits and the law applicable thereto, however, this Court cannot remain oblivious of the undeniable fact that the tendency of corruption in every field, has become a threatening danger to the State economy, striking on its roots. The public money, allocated for social sector and economic well being of the poor people, is consistently embezzled / misappropriated at a large scale and why the majority of the population is deprived of essential daily utilities, like pure drinking water, health care and education facilities, etc. **It has become the foremost obligation of each and every institution, including the Judicator, to arrest this monster at this stage, before it goes out of proportion, posing threat to the very survival of the State and State economy, therefore, the Courts shall apply the Anti-Corruption laws somewhat rigidly, once on fact the case is made out, at bail stage, against the accused person.** Distinction, however, is to be drawn between the ordinary criminal cases and of corruption on the above analysis and grounds, while dealing with bail matter to an accused person, charged for such like crimes and also at the time of conviction, once the case is proved against him then, Courts are not supposed to show any mercy by taking a lenient view in the matter of sentence."

Findings on beneficiaries.

24. **With regard to Petitioner Anfal who is the proprietor of M/S Al- Falah Impex** we are not persuaded by the agreements which he has submitted which show that he rented office space and a plot where he manufactured his plastics for the following reasons:

(A) S.161 Cr.PC statements of Syed Tahir Mehmood and Saifullah clearly indicate that no office premises were rented to either Anfal or Impex where he claims to have rented them. Even if these offices were in the use of Impex they were mere post boxes as opposed to fully functioning offices as is evident from the S.161 Cr.PC statements of Muhammad Muzamil and Jawed Akhtar which show that there was hardly any electric

consumption at the office. With regard to alleged TCS receipts there is no material to suggest that these were signed by Anfal or any one associated with Impex. They could have been signed by a chokidar especially as the office was apparently not in use. As to the letters sent by the FBR/IRS we place little reliance on these as it appears that IRS/FBR officials were mixed up in this sales tax scam.

(B) with regard to the plot where the alleged manufacturing unit was based the S.161 Cr.PC statement of Syed Amir Ali states that the plot was rented to Anfal from 01-08-2010 to 30-07-2011 which is a period of 11 months however he states that **no factory was operational on the said plot for at least 7 months from the date of signing the tenancy agreement.** Also no generator was installed on the said premises. This statement completely destroys the stance that there was a manufacturing unit on site which was capable of manufacturing such a large amount of plastics as claimed by petitioner No.1/Impex. In addition Muhammed Muzamil clearly states in his S.161 Cr.PC statement that based on billing the consumption of electricity on the plot where the manufacturing unit was set up based on his expertise is **not** enough to run a plastic manufacturing unit. As per S.161 Cr.PC statement of Jawed Akhtar there was also no application to place a generator on the plot. The fact that according to the petitioner he was running his manufacturing unit almost exclusively through a generator simply does not appeal to reason, logic or common sense. Even, if such a manufacturing unit was in place it would not have the capacity to generate so many sales tax invoices for refund which we will come to below.

25. In connection with the sales tax refunds these amounted to the colossal amount of **Rs.94.567 Million which indicates that an enormous amount of plastic was manufactured during this short period of 11 months even if the unit was fully operational (which the material on record suggests that it was not) which does not seem possible.**

26. In fact it appears from the material before us that it was not possible and that most of the sales tax refunds are based on fake and/or flying invoices.

27. At this stage it is worth pointing out the **modus operandi** of how this and other mega sales tax refund scams

work. A fake invoice is in respect of goods which simply do not exist but whose existence is claimed through fake invoices made either by the claimant or a third party for use by the claimant to make a sales tax refund. A "flying invoice" is generally where A sells a good to B. B however is not registered for sales tax so he does not take an invoice for the good from A. A ensures that an invoice is made out in favour of C on higher rates. C who is registered for sales tax claims back the sales tax on the invoice from the Sales tax department and in return A is paid a commission by C out of the recovered illegal sales tax for providing the flying invoice which enabled the illegal claim by C.

28. With the stakeholders A and C in connivance with each other the automated STARR system can easily be circumvented because all the stakeholders are on board and all the invoices etc will tally and lead to a valid report being generated through the STARR system hence the need for the concerned government officials who have the authority and power to check the system **being extra vigilant**. In fact the modus operandi is probably so prevalent that it is likely that a number of the government officers who are meant to be monitoring the sales tax refund scheme are probably also involved in such scams and thereby willfully fail to exercise their authority to try and prevent the scam. Rather than protecting the public money they are involved in the illegal misappropriation of the same.

29. **In this case it is significant that accused No's 9, 10, 11,13,14,15,16,17 all being proprietorships have already entered into plea bargains and accepted their guilt in providing fake or flying invoices to Impex on which Impex claimed illegal sales tax.** In addition 4 co-accused being employees of Accused No.8 Zubair Tufail applied for a PB which is under consideration. 2 other co-accused proprietorships have absconded **and thus nearly all the proprietorships who aided and abetted Anfal/Impex in**

claiming illegal sales tax through fake and flying invoices have accepted their guilt. Thus, if the aiders and abettors who provided the main accused Anfal/Impex with either fake and /or flying invoices in order to make its illegal sales tax claim have admitted their guilt by entering into PB's this adds weight to Impex's/Anfal's culpability since without these fake and/or flying invoices the sales tax scam could never have taken place.

30. The S.161 statement of Mohammed Zaheer who has now become an approver fully sets out this practice/modus operandi as occurred in the instant case. S.161 statements of Imran Khan and Hassan Ali also speak about this practice of setting up fake companies (Ms Rasasi Traders (serial No.8) and Interactive Technologies Gateway (serial No.20) in order to produce fake and/or flying sales tax invoices both of which companies were used by Impex in order to make illegal sales tax refund claims **as set out in the table at para 8 of the reference along with a number of other companies included in this reference who as already mentioned have entered into PB's.** (Noorani Agency (Serial No.2), Peoples Trading company (Serial No.4), Vohra Brothers (Serial No.5), Khawaja Brothers (Serial No.6), Beletnuts corporation (Serial No.11), Sheikh Chemical Co (Serial No.12), Loyal Traders (serial No.14), Hasseb Impex (serial No.15), Royal sponge and plastics (serial No.16), Abdul Hamied Agar (serial No.19), Imperial plastics and house hold (serial No.28) and Luqman and brothers (serial No.35) along with 4 others who entered into PB during the investigation stage and thus are not included in the reference but form a part of the table being IAV Polymers (serial No.10), Anjum Corporation (serial No.9) and sheikh International (serial No.24)

31. In our view however the final nail in the coffin of the petitioner in respect of his bail application is the **S.164 Cr.PC statement of Muhammed Zaheer** which shows the complete modus operandi of the scam and Impex's involvement

through Anfal and his brother Muhammad Umair (accused No.2 in the reference who has absconded) which is set out below:

STATEMENT OF MUHAMMAD ZAHEER U/S. 164 Cr.P.C. I used to work in Noorani Agency and Peoples Trading Company as Book Keeper & Outdoor / Import Assistant. Name of Noorani Agency's owner is Anwar Ali and name of owner of Peoples Trading Company is Noor Ali (**both have entered into PB's**). They both are Importers. They used to import chemical and plastic particles. During service whatever work has been given we did such as open a bank account in the name of staff or made Sales Tax Invoices and put on signatures thereon as well as witness in bank loan papers. Beside me other staff members were also bound to do all these works. On instructions of owners of Noorani Agency and Peoples Trading Company I opened an account in Soneri Bank, Jodia Bazar Branch. Plastic parties which imported was sold out to unregistered brokers of the market and the amount received from it deposited in my account which is in Soneri Bank or Bank Al-Habib, Jodia Bazar Branch and my wife's account which is also in Bank Al-Habib. Likewise, introduced in Faysal Bank, Jodia Bazar Branch and account Number was 3384. In the same manner Irfan also had to open an account with Bank Al-Habib, Jodia Bazar, Karachi and Sindh Bank who was working with me and in that accounts amount came from unregistered sales was deposited. **The Sales Tax Invoice of Plastic particles which were imported was sold out to Umair (accused No.2) with goods and the rate of which was 80-100 rupees per bag and this Sales Tax Invoice used to get by Umair and sometimes he sent Anfal (the petitioner). I sent some invoices to Umair through Khawaja Brothers and Anjum Corporations (both entered into PB). Sales Tax Invoices of Noorani Agency, Peoples Trading Company and Khawaja Brothers (all entered into PB) which used to be sold out without goods name of that companies are Al-Falah Impex (the petitioner), Tarks Impex, Ammar Enterprises, Al-Abeer Enterprises, Noor Plastic Industry, Naif Plastic Industry and Raheel Plastic Industry. The bank transaction of the invoices which were sold out without goods to the said companies in compliance of Section 73 of Sales Tax Act, 1990 was made through my and my wife's account which is in Bank Al-Habib bearing No. 2206 and in the Account of Irfan and my Faysal bank account i.e. 3351 Pay Orders were used to prepare. Through my Faysal Bank Account introduced Al-Falah Impex (petitioner). The invoices of Noorani Agency which used to be sell I got Rs.3 to 5 and likewise from Khawaja Brothers and Anjum Corporation also. The amount which credited in our accounts of**

unregistered sale we used to write names of Market Brokers on the back of cheques. I was transferred some amount from my Faysal Bank account to Al-Falah Impex account (the petitioner). Whatever works of Noorani Agency and Peoples Trading Company was required to do I did on directions of owners and I did just they are friends of my owner. This is my statement. (bold added)

Cross Examination:

"NIL"

Sd/-16.10.2017

M. Shahrukh Shah Nawaz

CJ & JM - X South Karachi.

32. The material in the reference showing how the illegal sales tax was transferred from Impex to different companies and accounts (including into the Account of M/A Al Faizan International opened and operated by the 3rd brother of Anfal and Umair Faizan who is accused No.7 in the reference and has absconded) also in our view points to the illegality of claiming illegal sales tax refunds where positive attempts have been made to hide/disguise the original source of funds which in effect may amount to the offense of money laundering. The simple question in this regard is whether an honest businessman who had legally claimed sales tax refunds would move such monies in such manner? Or even pay sales tax officers (for which we have seen documentary evidence in respect of payments to accused No.3 Iqbal Ahmed Magsi an IRS sanctioning officer which was used in part purchase of a house)? The answer is no. The involvement of the petitioners brother who is accused No.2 in the reference and has now absconded (Muhammed Umair) along with his other brother Faizan who is accused No.7 in the reference and is also an absconder is also another pointer as to the illegal actions being carried out by Impex.

33. Thus, based on the material before us **when taken as a whole and read in a holistic manner** we are of the considered view that this is not a case of further inquiry and that there is sufficient material on record to connect petitioner Anfal the proprietor of M/S Al Falah Impex to the offense for which he has been charged under the reference

which caused a colossal loss to the national exchequer and as such his petition for post arrest bail is dismissed.

Findings on Government officials

34. **Turning to the cases of petitioner Abdul Rauf Nasir** who was the sanctioning officer of sales tax and petitioner **Kashif Naseer** who was the processing officer of sales Tax.

35. Both these petitioners have been given a specific role in the reference at Para's 15 and 17 respectively which are set out below for ease of reference:

15. That the investigation revealed that the **accused No.4 Abdul Rauf Nasir being Sanctioning Officer of Sales Tax Refund** passed 2x sanction orders and sanctioned the illegal claim of accused No.1 for the months of Dec-12 amounting to Rs.11.593 Million without establishing genuineness of the claim as allowed under rule 29 (4) of sales tax refund rules. **It is worth mentioning here the fact that M/s. Al-Falah Impex was claiming refund of millions of rupees against invoices of suppliers who were generating either multiple invoices under Rs.50,000/- or invoices on daily basis in series which create suspicion only by seeing at a glance and also despite the fact that sales were made to unregistered and fake buyers no suspicion was raised by the accused nor any objections were listed while sanctioning sales tax refund claims.** (bold added)

17. That the investigation revealed that the **accused No.6 Kashif Naseer being processing officer of refund claims pertaining to M/s. Al-Falah Impex**, without establishing genuineness of the claim, as allowed under rule 29(4) of Sales Tax Refund rules, deliberately & illegally failed to exercise his authority to prevent the grant & rendered undue benefit / favour and in that way misused his authority. **No suspicion was raised by accused No.6 nor any objections were listed while processing these sales tax refund claims despite the fact that the firm was recently registered and started claiming refund of millions of rupees against invoices of suppliers and that no electricity consumption was shown on manufacturing unit and sales were made to unregistered and fake buyers. Accused processed and recommended for sanction 03 x illegal sales tax refund claims of M/s. Al-Falah Impex on fake / flying invoices on the manufacturing of zero rated supplies causing loss to**

national exchequer to the tune of Rs.14,226,042.
(bold added)

36. Both these petitioners have placed heavy reliance on Rule 29 of the sales Tax rules and the fact that once a sales tax refund application is cleared by STARR they no longer have any role to play. In this respect it is important to examine Rule 29 which is set out below for ease of reference.

"29. Security and processing of refund claim.—(1) On submission of a refund claim, the Refund Receipt Section shall confirm that the claim is complete in all respects, after which it shall be loaded in the system for assigning the claim a unique identification number.

(2) After assigning the unique identification number, the [CREST] shall cross match the data on soft copy with the data available in the system and process the claim by applying the risk parameters and generate analysis report indicating the admissible amount as well as the amount not validated on the basis of automated risk criterion along-with the objections raised by the system.

(3) **The processing officer** shall forward the claim file along-with the analysis report referred to in sub-rule (2) to the **officer-in-charge** for further necessary action.

(4) **Where the Processing Officer or the officer-in-charge** is of the opinion that any further inquiry or audit is required in respect of amount not cleared by the [CREST] **or for any other reason to establish genuineness and admissibility of the claim, he may make or cause to be made such inquiry or audit as deem appropriate, after seeking approval from the concerned Additional Collector and inform the refund claimant accordingly.** (bold added)

37. In our view Rule 29 does **not** mean that once a claim is ruled "valid" by STARR the concerned officials have no authority or power to question STARR's auto generated report and simply act as rubber stamps for such reports.

38. Along with the soft copy which is a part of the STARR process a hardcopy file is also moved on which STARR's generated report is placed. In our view once the STARR generated report is marked valid this does **not** exclude the concerned officers from questioning it if a red flag is raised and he has some suspicions.

39. In this case the petitioners were the processing officer, officer in charge, sanctioning officer respectively (who fall squarely under Rule 29) and the STARR report though marked valid which we have seen should have raised a red flag to such experienced officers. Namely so many claims in one day being made by one company (Impex) or through a series of numbers close in time especially as Impex was a newly registered company. One glance at such a report should have led to them checking the existence of the relevant companies concerned in the refund claim or at the very least marking there suspicions on the file for their superiors to consider. However they did nothing in the face of such obvious and glaring anomalies.

40. The concerned officials at the IRS dealing with Sales Tax refunds do not live in ivory towers. They know full well that stakeholders have developed a way to circumvent the STARR system by the **modus operandi** mentioned above and as such they need to be extra vigilant in scrutinizing such hard copy files and the STARR report. Even the S.161 Cr.PC statement of Muhammed Javed suggests STARR reports may need to be further scrutinized due to their inability to scrutinize the sales invoices of M/S Al Falah Impex that is sold to an unregistered person hence the petitioners being senior and experienced officers would also have been well aware of the limitations of the STARR system and the need to be extra vigilant. However, Abdul Rauf Nasir as refund sanctioning authority has blindly in a mechanical manner without considering the file, the report or applying his mind signed two sales tax refund payments in favour of Impex amounting to millions of rupees.

41. Most significantly from other documents before us it also appears that in respect of suppliers of Al Falah Impex Refund claim out of the 10 processed by petitioner **Kashif Naseer** one is an absconder, 3 have entered into PB's, one has applied for PB, one is a fake company and one is a

witness in this case. Whilst out of 9 sanctioned by petitioner **Abdul Rauf Nasir** 8 have entered into PB's. Accused Iqbal Ahmed Magsi who was also a sanctioning officer and is an accused in this reference has already absconded. Such failures on their part are not just one off isolated incidences but rather form a consistent pattern of willful failure to exercise their authority in respect of Impex

42. As to Abdul Rauf Nasir's belated claim for bail on medical grounds we note that no medical board has been constituted by any court to give its opinion as to his medical condition and even otherwise the medical documents placed on record do not appear to meet the legal requirements for the grant of bail on medical grounds and thus the case of **Mohammed Saeed Mehdi V State** (2002 SCMR 282) is of no assistance to him. Likewise the case of **Mohammed Amin Quershi V State** (2007 P.Cr.LJ 105) is distinguishable on its own particular facts as in this case the criminal intent on the part of the petitioners as discussed above can prima facie be inferred from their conduct in that they deliberately and willfully failed to exercise their authority to properly scrutinize the refund claims by Impex especially as such failure to scrutinize was not a one off event but was consistently missing in the case of Impex which they should have been alerted to at a glance being experienced and senior officers for the reasons mentioned above.

43. Had these officers exercised their authority as they were required to do under Rule 29 this Sales Tax scam would have been prevented and thus they played an active role in enabling Impex to illegally claim massive illegal sales tax refunds which caused a colossal loss to the state exchequer.

44. We do not consider that this is a pick and choose exercise by NAB whereby certain IRS officials have been let off. As explained by NAB they have requested and are waiting to receive other files from the IRS/FBR and once these files

are received references may be filed against other delinquent IRS officers involved in this and other sales tax scams as NAB's investigations into illegal sales tax refunds is on going.

45. Thus, based on the material before us we are of the considered view that prima facie there is sufficient material on record to connect both petitioner **Abdul Rauf Nasir** and petitioner **Kashif Naseer** to the offenses for which they have been charged under the reference and as such both their petitions for post arrest bail are hereby dismissed.

Findings on Aiders and abettors and benamidars.

46. With regard to petitioners (**Anis and Majid Ali**) both of these petitioners are on pre arrest bail and it is settled law that there must be some element of malafide on the part of NAB for these petitioners to be admitted to pre arrest bail. In this respect reference is made to the cases of **Rana Mohammed Arshad V Muhammad Rafique** (PLD 2009 SC 427) which was more recently reiterated by the Supreme Court in the case of **Mukhtar Ahmad v. The State and others** (2016 SCMR 2064).

47. Only Majid Ali has claimed malafides on account of the fact that at best he was an unwitting benamidar and as such it was malafide on the part of NAB to include him in the reference.

48. Malafide is difficult to prove and in this respect often it needs to be inferred from the facts and circumstances surrounding the particular case. In this respect reference is made to the Supreme Court case of **Khalil Ahmed Soomro and others V State** (unreported dated 28-07-2017). In so far as the case of Majid Ali is concerned there may be tinges of malafide by including him in the reference.

Turning to the case of Anis who is proprietor of M/S Al Ubaid Enterprises on merits.

49. He has been given a specific role at Para 23 of the reference. In essence he issued a flying invoice to Impex which enabled Impex to claim RS 24.5 lacs in illegal sales tax refund. We have seen the invoice issued by the petitioner in favor of Impex which he has not denied. In our view this is a flying invoice which the petitioner illegally gave to Impex to enable it to receive illegal sales tax refund. As mentioned earlier the petitioner has not been able to show any malafide on the part of NAB and in our view there is sufficient material on record to show that he aided and abetted Impex in receiving illegal sales tax refund and as such his pre arrest bail is recalled with immediate effect.

Turning to the case of Majid Ali on merits.

50. In our view his case is on a different and better footing to the other petitioners. It appears that he was neither a company mixed up in the illegal sales tax scam nor was he an IRS/FBR official. It was his uncle accused No.3 Iqbal Ahmed Magsi (IRS Official) who loaned him approx 31 lacs to purchase his property of which he was putting in the majority share of the purchase price. Although this loan had come from Iqbal Ahmed Magsi there is no material on record to show that the petitioner Majid Ali would have known that this loan in effect came from Impex and NAB has not been able to controvert this position. As such it appears that prima facie he was unwittingly made a benamidar in respect of at least part of the property and since we have already found that there may have been tinges of malafide in his case we find his case to be one of further inquiry and thus confirm his pre arrest bail on the same terms and conditions **subject to him furnishing an additional solvent surety of RS 10 lacs to the satisfaction of the Nazir of this court.**

51. **With regard to Petitioner Zubair Tufail** who is the CEO of Interplast (Pvt) who is on pre arrest bail he was been

given a specific role in the reference at Para 19 which reads as under:

"Para 19. That the investigation revealed that the accused No.8 Zubair Tufail CEO, Director as well as signing authority of bank accounts of M/s Interplast (Pvt) Ltd being the beneficiary of the act of corruption and corrupt practices, **obtained unlawful gain of Rs.6.196 Million by illegally issuing and selling flying invoices of 61,950 x bags of Plastic Moulding Compound (PMC). Further, he submitted false and fabricated evidence of payments made by M/s Al-Falah Impex which is his own money routed through Interplast (Pvt) Ltd or its employees' bank accounts shown as proof of payments made on behalf of M/s. Al-Falah Impex, in order to show false compliance of Section 73 of Sales Tax Act, 1990. (Details are mentioned in para 8. c. i of Investigation Report) (bold added).**

52. His employees (accused No.22, 23 and 24), who are also on pre arrest bail and who have applied for plea bargain (which is still under consideration) have also been given specific roles in aiding and abetting petitioner Zubair Tufail at para's 33 to 35 of the reference which are set out as under to emphasize how Tufails employees aided and abetted him in the sales Tax scam.

Para. 33. That the investigation revealed that the **accused No.22 Nisar Ahmed Vohra manager of Interplast (Pvt) Ltd and co-Signatory in Interplast (Pvt) Ltd Faysal Bank account No.430-887-0011003 aided and abetted accused Zubair Tufail, by signing cheques along with accused Zubair Tufail, deposited in M/s. Al-Falah Impex Faysal bank account which were re-submitted into Interplast (Pvt) Ltd same account immediately and in this way abetted the accused in showing fake proof of payments made on behalf of M/s Al-Falah Impex, just to show fake compliance of Section 73 of Sales Tax Act, 1990.**

Para. 34. That the investigation revealed that the **accused No.23 Abid Rahim Aided and abetted accused Zubair Tufail and accused Anfal by routing M/s Interplast (Pvt) Ltd. funds amounting to Rs. 30.00 Million through his bank account number 0007-7900692003 which is re-submitted into Interplast (Pvt) Ltd another bank account and in this way abets the accused in showing fake proof of payments made on behalf of M/s Al-Falah Impex,**

just to show fake compliance of Section 73 of Sales Tax Act, 1990. Also abetted in depositing cheques of Interplast (Pvt) Ltd in the bank accounts of M/s Al-Falah Impex and vice versa.

Para. 35. That the investigation revealed that the **accused No. 24 Muhammad Azeem aided and abetted accused Zuabir Tufail and accused Anfal by routing M/s. Interplast (Pvt) Ltd. funds amounting to Rs.28.612 Million through his bank account number 00077900697003 which is re-submitted into M/s Interplast (Pvt) Ltd another bank account and in this way abetted the accused in showing fake proof of payments made on behalf of M/s Al-Falah Impex,** just to show fake compliance of Section 73 of Sales Tax Act, 1990.(bold added)

53. At the outset we find no material to suggest that there has been any malafides on the part of the NAB whilst including petitioner Zubair Tufail in the reference.

54. The authorities relied on by him are also of little, if any, assistance to him as they are all distinguishable from the facts and circumstances of his case. **Syed Muzaffar Ali** (Supra) concerned a case where NAB had no objection to the grant of bail and the petitioners deposited with the chairman NAB the full amount claimed by NAB whereas in this case NAB has objected to the grant of bail and the petitioner has neither deposited nor offered to deposit anything in this case. **Ali Shan's case** (Supra) concerned a bailable offense under the Sales Tax Act rather than a non bailable offense under the NAO and the unreported case of **Jameel Akhtar and others V Chairman NAB** (CP.D 1770/16) dated 13-12-2017 passed by a DB of this court was based on the rule of consistency.

55. It is also pertinent to note at this stage that as already mentioned above out of the 20 or so proprietorships who aided and abetted Impex and were beneficiaries of this sales tax scam with Impex nearly all of them bar Zubair Tufail and Anis (whose case is dealt with above) have admitted their guilt and entered in to a PB.

56. With regard to the 5 year limitation on sales tax crimes we find this irrelevant as the petitioner received a call up notice well before the expiry of the 5 year period on 05-03-2016 in which he deliberately failed to produce the required documents which were then in his possession. **Even otherwise** the petitioner is being charged with an offense of corruption under the NAO which by virtue of S.3 NAO has overriding effect over other laws including the sales Tax Act. The reference therefore is under the NAO and **not** under the Sales Tax Act so the 5 year limitation period is irrelevant.

57. From the material placed before us it is quite apparent that the petitioner was an aider and abettor and beneficiary in this Sales tax scam. His employees Nisar Ahmed Vohra, Abid Rahim and Muhammad Azeem (accused No.22, 23 and 24 in the reference) in our view were simply the tools behind the implementation of the scam by the petitioner whose role and modus operandi is similar to that set out by approver Muhammed Zaheer in his S.164 statement as reproduced earlier in this order. Namely, his employees (accused 22, 23 and 24) were used to prepare flying invoices and transfer the illegal monies between their own personal bank accounts and Interplast's and Impex's bank accounts. Being humble employees they are more than prepared to take the fall for their boss hence their application for PB. It is does not appeal to reason that employees earning between RS 25,000 to 100,000 per month could themselves afford to pay RS 61 lacs by way of PB and is post probably being paid on their behalf by Zubair Tufail which if accepted would enable him to claim that no loss had been caused by his actions. Even the employees (accused 22, 23 and 24) application for PB **is set out on the letter head of Interplast (Pvt) limited** which reveals that they were acting on behalf of Interplast.

58. The documents which have been shown to us by NAB also clearly show how the funds in respect of the illegal sales tax scam were routed through the accused employees of Interplast in millions of RS in order to hide the scam and how

vast sums of monies amounting to RS 30.375 M was routed consistently between 11-05-2011 to 11-09-2011 between Interplast's bank account to Al Falah Impex's bank account and back again to Interplast's bank account. **Learned counsel for Interplast had no explanation as to why monies would go from his account into Impex's account and were returned back into Interplast's account on a regular basis.** This clearly shows in our view that Interplast was fully involved with Impex in providing flying invoices to Impex to enable Impex to claim illegal sales tax refunds.

59. Likewise the NAB showed us the Faysal Bank account of Impex, which is set out below for ease of reference, which shows regular debits and credits between Interplast and Impex **for which once again the petitioner had no explanation.** It is notable that many of these deposits are being made by **Umair and Faizan the brothers of Afrian/Impex who are both accused in this reference (and have absconded) and Abid Rahim an employee of Interplast/ Zubair Tufail.** If Zubair Tufail had nothing to do with Impex and the sales tax scam why is he regularly paying into Impex's account and receiving back from that account such regular and large sums of money? The explanation is that he is helping to conceal his role in Impex's illegal sales tax scam through which he provided flying invoices. Significantly the large amounts involved and their frequency of debit and credit completely negates any concept of any of his rogue/unauthorized employees (accused No.22, 23, and 24) running a minor private business behind the petitioners back. **The record reveals that Zubair Tufail and his employees accused No.22, 23 and 24 were all acting together and were all on aboard in aiding and abetting Impex in its sales tax scam.**

FAYSAL BANK ACCOUNT OF M/S. ALFALH IMPEX

Inst. No.	Date	Debit	Credit	Title of Account	Account No.	Bank/ Branch
8895718	11/May/11		100,000	Interplast	430-887-	Faysal Bank

				(Pvt) Ltd.	0011003	Shahra-e-Faisal (II)
8895717	11/May/11		200,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088460	13/May/11	600,00		Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307049	14/May/11		400,000	Interplast (Pvt) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307050	14/May/11		200,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307036	15/May/11		850,000	Interplast (Pvt) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307037	15/May/11		660,000	Interplast (Pvt) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307038	15/May/11		490,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088454	14/May/11	2,000,000		Interplast (Pvt.) Ltd.		Faizan - 34388205-8
29088458	16/May/11	6,00,000		Interplast (Pvt) Ltd.	430-887-0011003	
9307051	16/May/11		900,000	Interplast (Pvt) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307052	16/May/11		600,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307053	16/May/11		500,000	Interplast (Pvt) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088451	17/May/11	2,000,000		Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307070	17/May/11		400,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307071	17/May/11		200,000	Interplast (Pvt) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088457	18/May/11	6,00,000		Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9307099	20/May/11		600,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088456	23/May/11	6,00,000		Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9581289	28/Jun/11		800,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9581290	28/Jun/11		650,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088467	28/Jun/11	1,550,000		Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9581297	29/Jun/11		850,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
	30/Jun/11	850,000		Interplast (Pvt.) Ltd.		

9581300	30/Jun/11		400,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9798581	30/Jun/11		300,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9798584	2/Jul/11		650,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
9798583	2/Jul/11		700,000	Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
29088466	2/Jul/11	700,000		Interplast (Pvt.) Ltd.	430-887-0011003	Faysal Bank Shahra-e-Faisal (II)
	4/Jul/11		100,000			
29088469	4/Jul/11	1,450,000		Interplast (Pvt.) Ltd.		Deposited by faizan - 34388205-8
	6/Jul/11		1,150,000	Interplast (Pvt.) Ltd.		Deposited by faizan - 34388205-8
29088471	6/Jul/11	1,150,000		Interplast (Pvt.) Ltd.		Deposited by faizan - 34388205-8
9798594	6/Jul/11		550,000	Interplast (Pvt.) Ltd.		
9798604	6/Jul/11		800,000	Interplast (Pvt.) Ltd.		
9798592	6/Jul/11		800,000	Interplast (Pvt.) Ltd.		
29088470	7/Jul/11			Interplast (Pvt.) Ltd.		Deposited by Abid Rahim 34388201
		2,100,000				
	11/Jul/11		1,110,000	Interplast (Pvt.) Ltd.		
9798646	13/Jul/11		900,000	Interplast (Pvt.) Ltd.		Deposited by Umair 0321-9258001
9798647	13/Jul/11		675,000	Interplast (Pvt.) Ltd.		Deposited by Umair 0321-9258001
	13/Jul/11	1,500,000		Interplast (Pvt.) Ltd.		Deposited by Abid Rahim 34388201
	13/Jul/11	1,160,000		Interplast (Pvt.) Ltd.		Deposited by Abid Rahim 34388201
	16/Jul/11		2,660,000	Interplast (Pvt.) Ltd.		
	18/Jul/11	2,650,000		Interplast (Pvt.) Ltd.		
	20/Jul/11		1,750,000	Interplast (Pvt.) Ltd.		Deposited by Umair

	20/Jul/11		1,700,000	Interplast (Pvt.) Ltd.		Deposited by Umair
	20/Jul/11	3,500,000		Interplast (Pvt.) Ltd.		Deposited by faizan 34388205-8
	26/Jul/11		1,540,000	Interplast (Pvt.) Ltd.		Deposited by Umair
33304476	27/Jul/11	1,040,000		Interplast (Pvt.) Ltd.		Deposited by Abid Rahim
33304477	27/Jul/11	500,000		Interplast (Pvt.) Ltd.		
9798545	28/Jul/11		550,000	Interplast (Pvt.) Ltd.		Deposited by Umair
9798546	28/Jul/11		440,000	Interplast (Pvt.) Ltd.		Deposited by Umair
9798547	28/Jul/11		560,000	Interplast (Pvt.) Ltd.		Deposited by Umair
	29/Jul/11	1,550,000		Interplast (Pvt.) Ltd.		Deposited by Abid Rahim
	3/Aug/11		730,000	Interplast (Pvt.) Ltd.		Deposited by faizan-34388205-8
	3/Aug/11		1,550,000	Interplast (Pvt.) Ltd.		Deposited by faizan-34388205-8
	3/Aug/11	1,680,000		Interplast (Pvt.) Ltd.		Deposited by faizan-34388205-8
	3/Aug/11	595,000		Interplast (Pvt.) Ltd.		Deposited by faizan-34388205-8
	15/Sep/11		2,050,000	Interplast (Pvt.) Ltd.		
	16/Sep/11	2,000,000		Interplast (Pvt.) Ltd.		

60. These banking transactions and nexus between Interplast and its employees and Impex/Anfal through his brother Umair and Faizan (both absconders) is also shown through the S.161 Cr.PC statements of bank officials Imran, Noman Azim Sarwar and Muhammed Jawaaid.

61. As mentioned earlier the petitioner has not been able to show any malafide on the part of NAB and in our view there is sufficient material on record to show that the petitioner aided and abetted Impex in receiving illegal sales tax refunds which caused a massive loss to the national exchequer and as such his pre arrest bail is recalled with immediate effect.

In summary.

(a). The post arrest bail petitions of Anfal, Abdul Rauf Nasir and Kashif Naseer stand dismissed.

(b). The pre arrest bail earlier granted to Anis Zakariya and Zubair Tufail is recalled with immediate effect.

(c). The pre arrest bail earlier granted to Majid Ali is confirmed on the same terms and conditions subject to furnishing **an additional** solvent surety of RS one million (ten lacs) to the satisfaction of the Nazir of this court.

62. A copy of this order shall be transmitted by the office to Chairman Federal Board of Revenue, Islamabad who shall immediately issue written orders that due to the potential short comings of the STARR system all the IRS/FBR or other officers concerned with the Sales Tax Refund process must be extra vigilant in checking the claims and the information contained in the hard copy files notwithstanding a valid STARR report so that the menace of illegal sales tax refunds through use of fake and /or flying invoices may be stamped out with a caution that a failure to perform their duties in this respect may result in legal consequences as such offences fall under the National Accountability Ordinance 1999 and in effect they are the last barrier which needs to be crossed in order for such false claims to be allowed and such scams to succeed.

63. The above petitions stand disposed of in the above terms **except** C.P.No. D-2717/2017 Zubair Farid Tufail and others which the office shall put up before this Bench on 13-03-2018 when the petitions for pre arrest bail of Nisar Ahmed Vohra, Abid Rahim and Muhammed Azeem (all of whom have applied to NAB for plea bargains) shall be determined.