

THE HIGH COURT OF SINDH KARACHI

Present:
Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

Category	Case No.	Parties Name / Title
A	C.P. No. D – 4910 of 2025	H.M. Motors versus Federation of Pakistan & others
	C.P. No. D – 7798 of 2022	M/s. Mikdar Wood Products (Pvt) Ltd. versus Federation of Pakistan & others
	C.P. No. D – 2301 of 2025	M/s. Springs Edibles (Pvt.) Limited versus Federation of Pakistan and another
	C.P. No. D – 329 of 2024	M/s. Al Pak Ghee Mills versus Federation of Pakistan & others
B	C.P. No. D – 4727 of 2025	M/s. Rayyan Paper Products (Pvt.) Ltd. versus Federation of Pakistan and another
	C.P. No. D – 4379 of 2025	M/s. M.A. Proteins versus Federation of Pakistan and another
	C. P. No. D – 2619 of 2025	M/s. D. S. Motors Private Limited VS Federation of Pakistan & others
	C.P. No. D – 328 of 2025	M/s Multicaps versus Federation of Pakistan and another.
C	C.P. No. D – 329 of 2024	M/s. Al Pak Ghee Mills versus Federation of Pakistan & others
	C.P. No. D – 4342 of 2018	M/s. Ghazi Brothers versus Federation of Pakistan & Others
	C.P. No. D – 6022 of 2023	M/s. Ghazi’s Uniforms versus Federation of Pakistan & another
	C.P. No. D – 5708 of 2024	M/s. Majestic International Marriage Law versus Federation of Pakistan & others
D	C.P. No. D – 5191 of 2025	M/s Sceptre Pvt. Ltd versus Federation of Pakistan and others.

1	H.C.A. No. 268 of 2019	Directorate of Intelligence & Investigation Inland Revenue, Karachi versus M/s Agha Steel Industries Limited and others.
2	H.C.A. No. 269 of 2019	Directorate of Intelligence & Investigation Inland Revenue, Karachi versus M/s Denim International and others.

For the Petitioner(s)/ Appellant(s) in HCAs 268 & 269 of 2019	:	M/s. Muhammad Ahmed Masood, Aadil Channa, Syeda Abida Bokhari, Mirza Moiz Baig, Qazi Umair Ali, Muhammad Inzimar Sharif, Ahmed Ali Hussain, Yousuf Ali, Abdul Rahim Lakhani, Atta Muhammad Qureshi, Muhammad Altaf and Muhammad Bilal, Suneel Ali Memon, Aizaz Ahmed, Zaeem Hyder, Mahmood Ahmed and Muhammad Adeel Awan, Advocates.
For the Respondent(s)	:	M/s. Barrister S. Ahsan Ali Shah, Khalid Mehmood Rajpar, Mukesh Kumar Khatri, Anas Makhdoom Agha Shahid Majeed Khan, Athar Hussain, Zakia Jatoi [holds brief for Ameer Bakhsh Metlo], Nadir Hussain [holds brief for Irfan Mir Halepoto] Muhammad Aqeel Qureshi, Faheem Raza, Abdul Basit Qazi [holds brief for Dr. Shah Nawaz Memon], Ms. Aiman [holds brief for Imdad Qamar] Muhammad Taseer Khan, Syed Mohsin Ali Shah, Muhammad Khalid, Muhammad Yaqoob Mahar, Arshad Tunio, Mujeeb Zeeshan, Advocates.
For the Respondent(s)	:	M/s. Zohaib Sarki, Imran Taj and Muhammad Khoso, Advocates in HCAs No. 268 and 269 of 2019.
Federation of Pakistan	:	Ms. Mehreen Ibrahim, Deputy Attorney General for Pakistan and Mr. Ghulam Asghar Pathan, Deputy Attorney General for Pakistan.
Date of hearing in C.P. Nos.D-4379/2025, 328/2025, 7798/2022, 5708, 329/2024, 4342/2018, 6022/2023 & HCAs 268 & 269/2019	:	13-11-2025
Date of hearing in C.P. Nos.D-2301/2025, 5191/2025, 4727/2025, 4910/2025	:	20-11-2025
Date of hearing in C.P. No.D-2619/2025	:	01-12-2025
Date of announcement	:	24-12-2025

JUDGMENT

Muhammad Jaffer Raza J. – The Petitioners in all the above noted petitions are registered persons under the Sales Tax Act, 1990 (“**Act**”) and taxpayers under the Income Tax Ordinance, 2001 (“**Ordinance**”). Succinctly stated, the Petitioners have broadly challenged a surprise search of their respective business premises, authorized by officers of the Respondents under

the above noted Act and Ordinance. The noted exercise of search and in some cases seizure, was purportedly carried out in exercise of powers under Section 38 of the Act and Section 175 of the Ordinance. During the noted exercise, the officers took into custody records, in the form of files, books, and computer hardware belonging to the Petitioners.

2. Considering that a similar point of law is involved in all the noted petitions, the same were heard together and shall be adjudicated through this common judgment. The noted petitions are classified into the following categories: -

Category	Features
A.	This category involves cases in which authorization letter for search was issued under Section 38 of the Act, but no warrants for the search were obtained under Section 40.
B.	This category involves cases in which authorization letter for search was issued under Section 38 of the Act, however warrants were obtained under Section 40, without the department initiating any proceedings.
C.	In this category, search under section 175 of the Ordinance was undertaken when no proceedings under the Ordinance were pending against the Petitioner.
D.	This category involves search carried out under Section 175 of the Ordinance, with proceedings initiated against

Petitioner under the Ordinance and reasons duly assigned in authorization letter.

3. It is germane to note that a learned Division Bench of this Court, in a recent judgment in the case of Team A-Ventures (Pvt) Ltd¹, upholding the judgement rendered in the case of A&Z Agro Industries², has adjudicated upon the legal propositions highlighted in the instant petitions. The same may be classified as under: -

Sales Tax:-

4. The principle laid down in the case of Team A-Ventures (Pvt) Ltd (supra), in respect of Sales Tax can safely be summarized as follows: -

- i. Power to search under Section 38³ of the Act is not independent of the power under Section 40⁴, meaning thereby that all searches under Section 38 must be accompanied with warrants under Section 40 of the Act.

¹ The Commissioner Inland Revenue, legal Zone (MTO) versus Team A-Ventures (Pvt) Ltd. High Court Appeal No. 11 of 2022.

² A&Z Agro Industries (Pvt.) Ltd. & Others VS Federation of Pakistan & another in Civil Suit bearing No. Suit No. 2019/2015 reported at **SBLR 2022 Sindh 322**. The noted judgment was authored by one of us, namely Adnan Iqbal Chaudhry J.

³ **38. Authorised officers to have access to premises, stocks, accounts and records –**

(1) Any officer authorised in this behalf by the Board 526[or the Commissioner shall have free access [including real-time electronic access] to business or manufacturing premises, registered office or any other place where any stocks, business records or documents required under this Act are kept or maintained belonging to any registered person or a person liable for registration or whose business activities are covered under this Act or who may be required for any inquiry or investigation in any tax fraud committed by him or his agent or any other person; and such officer may, at any time, inspect the goods, stocks, records, data, documents, correspondence, accounts and statements, utility bills, bank statements, information regarding nature and sources of funds or assets with which his business is financed, and any other records or documents, including those which are required under any of the Federal, Provincial or local laws maintained in any form or mode and may take into his custody such records, statements, diskettes, documents or any part thereof, in original or copies thereof in such form as the authorised officer may deem fit against a signed receipt.

(2) The registered person, his agent or any other person specified in sub-section (1) shall be bound to answer any question or furnish such information or explanation as may be asked by the authorised officer.

(3) The department of direct and indirect taxes or any other Government department, local bodies, autonomous bodies, corporations or such other institutions shall supply requisite information and render necessary assistance to the authorised officer in the course of inquiry or investigation under this section.]

(4) For the purpose of sub-section (1), the Board may make rules relating to electronic real-time access for audit or a survey of persons liable to tax.]

⁴ **40. Searches under warrant.–**

(1) Where any officer of [Inland Revenue] has reason to believe that any documents or things which in his opinion, may be useful for, or relevant to, any proceedings under this Act are kept in any place, he may after obtaining a warrant from the magistrate, enter that place and cause a search to be made at any time.

(2) The search made [in his presence] under sub-section (1) shall be carried out in accordance with the relevant provisions of the Code of Criminal Procedure, 1898 (V of 1898).]

- ii. For obtaining warrants under Section 40 of the Act, it is imperative to show that some “proceedings under the Act” have already been initiated for which a search is necessitated, as the provision is not intended as a fishing inquiry.
- iii. A search conducted without fulfilling the above-noted requirements is unlawful and any record obtained pursuant to the search ought to be returned. The same cannot be used in evidence against the registered person to determine tax liability.

5. At this juncture, it is imperative to specify that the principle summarized in paragraph No. 4 (iii) above, is based on the doctrine of “*fruit of the poisonous tree*”, which doctrine has certain exceptions as noted in the case of *A & Z Agro Industries* (supra).

Income Tax: -

6. The law relating to Section 175⁵ of the Ordinance was discussed extensively in the case of *Team A-Ventures (Pvt) Ltd* (supra) and the conditions laid down for invoking said provision may be summarized as follows: -

⁵ 175. Power to enter and search premises. —

(1) In order to enforce any provision of this Ordinance (including for the purpose of making an audit of a taxpayer or a survey of persons liable to tax), the Commissioner or any officer authorised in writing by the Commissioner for the purposes of this section –

(a) shall, at all times and without prior notice, have full and free access² [including real-time electronic access] to any premises, place, accounts, documents or computer;

(b) may stamp, or make an extract or copy of any accounts, documents or computer-stored information to which access is obtained under clause (a);

(c) may impound any accounts or documents and retain them for so long as may be necessary for examination or for the purposes of prosecution;

(d) may, where a hard copy or computer disk of information stored on a computer is not made available, impound and retain the computer for as long as is necessary to copy the information required; and

(e) may make an inventory of any articles found in any premises or place to which access is obtained under clause (a).

(2) The Commissioner may authorize any valuer or expert to enter any premises and perform any task assigned to him by the Commissioner.]

(3) The occupier of any premises or place to which access is sought under sub-section (1) shall provide all reasonable facilities and assistance for the effective exercise of the right of access.

(4) Any accounts, documents or computer impounded and retained under sub-section (1) shall be signed for by the Commissioner or an authorised officer.

(5) A person whose accounts, documents or computer have been impounded and retained under sub-section (1) may examine them and make extracts or copies from them during regular office hours under such supervision as the Commissioner may determine.

(6) Where any accounts, documents or computer impounded and retained under sub-section (1) are lost or destroyed while in the possession of the Commissioner, the Commissioner shall make reasonable compensation to the owner of the accounts, documents or computer for the loss or destruction.

- (i) The provision of the Ordinance sought to be enforced by the search must be specified by the authority as the power to search is not intended as a fishing inquiry.
- (ii) Some legal action under the Ordinance must be pending against the taxpayer.
- (iii) To avoid misuse of the provision, reasons for the search ought to be stated in the authorization letter.

H.C.A. No. 268 of 2019 & H.C.A. No. 269 of 2019

7. The above-noted High Court Appeals impugn order dated 10.04.2019 (“**Impugned Order**”) rendered by a learned single judge of this court in the case of Agha Steel Industries Ltd⁶. The noted appeals were heard along with the petitions listed above as they involve a similar point of law. The finding in the Impugned Order, in reference to Section 38 of the Act and Section 175 of the Ordinance, is in line with the judgement recently rendered by the Division Bench in the case of Team A-Ventures (Pvt) Ltd (supra), principles of which have already been summarized above. Therefore, to that extent, aforesaid HCAs do not require further deliberation with the observation that the matter is now clinched by the case of Team A-Ventures (Pvt) Ltd (supra).

8. As regards the additional point in HCA No. 268/2019, viz-a-viz the posting order issued under section 40-B of the Sales Tax Act that has been set-aside by the Impugned Order, learned counsel for the Appellant has not been

(7) This section shall have effect notwithstanding any rule of law relating to privilege or the public interest in relation to access to premises or places, or the production of accounts, documents or computer-stored information.

(8) In this section, “occupier” in relation to any premises or place, means the owner, manager or any other responsible person on the premises or place.

(9) For the purpose of clause (a) of sub-section (1), the Board may make rules relating to electronic real-time assess for audit or a survey of persons liable to tax.]

⁶ Agha Steel Industries Ltd. v. Directorate of Intelligence and Investigation reported at **2019 PTD 2119**.

able to convince us to interfere with the well-reasoned order of the learned single Judge. Therefore, the noted appeals are dismissed with no order as to cost.

9. In respect of the listed petitions it is apparent that the cases falling into categories A, B, and C, squarely fall within the dictum laid down in the aforesaid judgment. Accordingly, petitions pertaining to the said categories are allowed in the following terms: -

- i. The Authorizations and search of the Petitioners' business premises impugned therein are declared to be illegal and consequently set aside.
- ii. Consequently, tax authorities are directed to return to the Petitioners all record, documents, computer hardware etc. taken into custody or impounded during the impugned search; and save the exception referred to in para 5 supra, tax authorities are restrained from using said material as evidence in determining the tax liability of the Petitioners.

10. The petition falling into category D is hereby dismissed as the principles laid down hereinabove were adhered to by the Respondents.

JUDGE

JUDGE

**PS/SADAM*