

THE HIGH COURT OF SINDH KARACHI

Present:

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

C.P. No. D – 1598 of 2025: Muhammad Noman versus
Federation of Pakistan and others.

Petitioner : M/s. Ahmed Masood and Mirza
Abdul Moiz Baig, Advocates.

Respondent No.1 : Ms. Mehreen Ibrahim, Deputy
Attorney General for Pakistan.

Respondent No.2 : Mr. Furkan Ali, Advocate.

Respondent No.3 : Rana Sakhavat Ali, Advocate.

Date of hearing : 03-12-2025

Date of decision : 03-12-2025

ORDER

Adnan Iqbal Chaudhry J. – By FIR No. 01/Z-II/CTO/KHI/25 dated 18.04.2025, the Petitioner was booked for the offence of tax fraud as defined in section 2(37) of the Sales Tax Act, 1990, punishable under section 33 thereof, for under-declaring sale proceeds as a retailer. The Petitioner prays for a declaration that the FIR is hit by the pronouncement of the Supreme Court in *Directorate of Intelligence & Investigation-FBR v. Taj International (Pvt.) Ltd.* (2025 SCP 235), and therefore, the FIR is liable to be quashed.

In *Directorate of Intelligence & Investigation-FBR v. Taj International (Pvt.) Ltd.*, decided on 04.12.2024, the Honorable Supreme Court of Pakistan interpreted certain provisions of the Sales Tax Act to uphold a 2013 verdict of the Lahore High Court that an FIR for tax fraud cannot be lodged against a registered person until his tax liability is adjudicated and assessed by the department under section 11 of the Act. However, after the Finance Act, 2024, the provisions so interpreted stood amended. It has yet to be seen whether the ratio of *Taj International* continues to apply to the

amended provisions. Be that as it may, in the Petitioner's case, the FIR was in fact lodged after his tax liability was determined by Order-in-Original dated 17.04.2025 passed under section 11E of the Act. Against that, the Petitioner filed an appeal before the Appellate Tribunal Inland Revenue which is said to be pending. Therefore, the Petitioner's argument is essentially that until he exhausts the appellate *fora* provided in the Act, the FIR could not have been lodged. The Respondents, on the other hand, submit that *Taj International* does not bar an FIR pending appeal.

The other ground urged to quash the FIR is that the underlying adjudication of Petitioner's tax liability is premised on documents seized from his shop during a raid/search carried out without presenting the requisite warrant mandated by section 40 of the Act, and that such searches have been declared unlawful by this Court with the consequence that documents so seized cannot be used as evidence against the Petitioner. On the other hand, the Respondents submit that the search was undertaken with the requisite warrant under section 40 of the Act.

Therefore, both submissions made on behalf of the Petitioner for quashing the FIR are far from conclusive and are being contested by the Respondents. Such circumstances do not present an exceptional case for by-passing the alternative remedy available before the trial Court in section 265-K Cr.P.C. Therefore, we dismiss this petition with the observation that the Petitioner is free raise the aforesaid arguments before the trial Court under section 265-K Cr.P.C.

JUDGE

JUDGE

*PS/SADAM