

THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Adnan Iqbal Chaudhry

C.P. No. D – 3715 of 2026

[M/s. Rima Cooking Oil Industries (Private) Limited v. Federation of Pakistan & another]

Petitioner : M/s. Rima Cooking Oil Industries (Private) Limited through Mr. Vishwa Mittar, Advocate for the Petitioner.

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

Respondent No.2 : Commissioner Inland Revenue through Rana Sakhawat Ali, Advocate.

Date of hearing : 29-09-2026

Date of decision : 29-09-2026

ORDER

Adnan Iqbal Chaudhry J.- The Petitioner has challenged a search and seizure conducted by officers of Inland Revenue at the Petitioner's business premises under section 38 of the Sales Tax Act, 1990 [Act] pursuant to an authority letter dated 14.05.2026 issued by the Commissioner Inland Revenue, Sukkur Zone, RTO Sukkur (Respondent No.2). One of the grounds for the challenge is that the search was carried out without obtaining a warrant as mandated by section 40 of the Act. The absence of such warrant is not a fact disputed by learned counsel for Respondents. Therefore, learned counsel for the Petitioner correctly submits that the case is covered by decisions already rendered by Division Benches of this Court in (i) *Commissioner Inland Revenue v. Team A-Ventures (Pvt.) Ltd.* (judgment dated 29.10.2025 in HCA No. 11/2022 and connected appeals) upholding the judgment in *A&Z Agro Industries (Pvt.) Ltd. v. Federation of Pakistan* (SBLR 2022 Sindh 322), and (ii) *H.M. Motors v. Federation of Pakistan* (judgment dated 24.12.2025 in C.P. No. D-4910 of 2025 and connected petitions).

2. Aforementioned decisions of this Court in turn are based on pronouncements of the Supreme Court of Pakistan in *Federation of Pakistan v. Master Enterprises (Pvt.) Ltd.* (2003 PTD 1034), *Collector of Sales Tax and Central Excise (Enforcement) v. Mega Tech (Pvt.) Ltd.* (2005 SCMR 1166), *Chairman, Central Board of Revenue v. Haq Cotton Mills (Pvt.) Ltd.* (2007 PTD 1351) and *Collector of Sales Tax v. Food Consults (Pvt.) Ltd.* (2007 PTD 2356). The principles settled by the Supreme Court in *Mega Tech* vis-à-vis sections 38 and 40 of the Sales Tax Act, 1990 were as follows:

- (i) that section 38 is not an independent power to search and must be read with section 40;
- (ii) that the power to search a premises under section 38 is conditioned by section 40 as follows: (a) by requiring a search warrant from the Magistrate, and (b) by a reason to believe that the search would yield a document or thing, which in the opinion of the tax authority would be useful for, or relevant to, any proceedings under the STA;
- (iii) that section 40 exists as a procedural counter-balance and safeguard provided to citizens against the misuse of free access and drastic powers granted to tax authorities under section 38; and
- (iv) that a search conducted without fulfilling the requirements of section 40 is unlawful, with the consequence that the record thus obtained by the tax authority must be returned and cannot be used in evidence against the taxpayer in determining his tax liability.

3. It appears that the Respondent No.2 acted in complete disregard of the stated legal position.

4. In view of the foregoing, the petition is allowed by declaring that the search and seizure carried out by officers of Inland Revenue at the Petitioner's business premises under section 38 of the Sales Tax Act, 1990 in pursuance of authority letter dated 14.05.2026, was in violation of section 40 of said Act. Consequently, the Respondent No.2 shall ensure that all record, documents and equipment impounded during the search is returned to the Petitioner, and save the exception discussed in para 20 of the judgment in *A&Z Agro*

Industries, such record shall not be used as evidence in determining the Petitioner’s tax liability.

JUDGE

JUDGE

**PS/SADAM*