ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI.

C.P No. D-4629 of 2023

Dated | Order with signature of Judge.

For hearing of CMA No.6031/2025

22.10.2026.

Mr. Anwar Kashif Mumtaz, Advocate for the Petitioner
Barrister S. Ahsan Ali Shah, for the Respondent
Ms. Mehreen Ibrahim, D.A.G.

The listed Application seeks return of the amount secured by the Petitioner in terms of the Order dated 03.10.2023 for purpose of obtaining release of an imported consignment. The relevant excerpt of that Order reads as follows:

> "Learned Counsel further submits that a fresh consignment has also arrived at Port for which he has referred to Goods Declaration placed on record alongwith statement. He submits that some interim orders be passed for release of the consignment as Petitioner is willing to secure the differential amount of Revenue.
>
> In the meantime, by way of an interim arrangement, let the disputed amount of Income tax be secured before the Nazir of this Court by way of Pay Order / Bank Guarantee in respect of the consignment covered by this Petition. Once the amount is secured as above, Nazir shall issue appropriate certificate, which shall be presented before the concerned Collectorate / Department, who shall release the consignment forthwith. If the amount is secured by way of Pay Order, Nazir shall invest the same in some profit bearing instrument as per rules."

Learned counsel for the Petitioner submitted that the Petitioner had filed this Petition seeking a reduced rate certificate from withholding of tax u/s 148 of the Income Tax Ordinance 2001 as per Division II Part V of the 1st Schedule and PCT Code 72.08 Part II of the Twelfth Schedule of the Income Tax Ordinance 2001 and it is in that backdrop that the Order dated 03.10.2023 had been passed, with the Petitioner having then secured the disputed amount of Rs. 100,691,399/- with the Nazir through a Bank Guarantee and Pay Order, whereafter the Petition had been disposed of on 15.01.2025,

in view of the assertion that the Petitioner would apply for the exemption afresh. He submits that the subject of withholding had been subsumed in the tax return that had since been filed by the Petitioner for the relevant tax year and that if the Department had any cavil therewith, appropriate proceedings could be initiated under the Ordinance in that regard. However, following the disposal of the Petition, the surety was no longer required to be retained.

Conversely, learned counsel for the Department contended that the listed Application was liable to be dismissed in the absence of a fresh application for exemption by the Petitioner, as envisaged in the Order dated 15.01.2025. However, he conceded that no proceedings had been initiated by the Department in the the matter of the return filed by the Petitioner covering the period in question.

Having considered the matter, we find force in the contentions of learned counsel for the Petitioner. Under the given circumstances, where the matter apparently falls to be addressed through any proceedings as may be initiated under the Ordinance and Rules in the matter of the return filed by the Petitioner, the listed Application stands allowed. The Nazir may do the needful by way of return of surety, subject to verification/identification and fulfillment of codal formalities.

JUDGE

JUDGE

TariqAli/PS