

**IN THE HIGH COURT OF SINDH AT KARACHI**

Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Agha Faisal

C.P. No. D-5958 of 2016

Dr. Faisal Akhlaq Ali Khan  
Versus  
Province of Sindh & others

Date of Hearing: 23.09.2021

Petitioner: Through Mr. Aminuddin Ansari Advocate

Respondent No.1: Through Mr. Saifullah, Assistant Advocate General.

Respondents No.2&3: Through Mr. Kashif Nazeer and Mr. Shamshad Ahmed Advocates along with Syed Zain-ul-Abidin Shah, Deputy Commissioner Sindh Revenue Board.

**J U D G M E N T**

Muhammad Shafi Siddiqui, J.- Petitioner, being a qualified surgeon, as claimed in the memo of petition, and being registered with the Pakistan Medical & Dental Council as Assistant Professor of Civil Hospital (DUHS), has challenged show-cause notice dated 06.10.2016 in terms whereof Sindh Revenue Board, on the strength of Section 24-B of Sindh Sales Tax On Services Act, 2011 had asked him (the petitioner) to be registered for rendering services.

2. We have heard learned counsel and perused material available on record.

3. On the touchstone of Article 9 of Constitution of Islamic Republic of Pakistan, 1973, learned counsel for petitioner has made an attempt that this impugned notice is in its violation. Article 9 is reproduced as under:-

*“9. No person shall be deprived of life or liberty save in accordance with law.”*

4. In support of this, petitioner’s counsel has relied upon a judgment in the case of “Petition regarding miserable condition of schools” reported as 2014 SCMR 396.

5. Section 24-B of Sindh Sales Tax On Services Act, 2011 requires compulsory registration for a person who has not applied for registration. An officer after inquiry, if it was found fit, may register him through an order to be issued in writing and such person shall be deemed to have been registered from the date he became liable to registration. This notice alone has been impugned in the instant proceedings.

6. Section 3 of the Sindh Sales Tax On Services Act, 2011 provides entire nomenclature for the taxable services listed in second schedule to this Act, which are provided by a registered person from his registered office or place of business in course of any economic activity including in commencement or termination of the activity, regardless of the fact that the service is being provided to resident or non-resident person. The Tariff Heading 9842.0000 of Second Schedule provides the description of the services and economic activity being rendered by a person (petitioner herein) i.e. cosmetic and plastic surgery and transplantation.

7. The show-cause notice issued under section 24-B which is impugned in these proceedings primarily encompass the above referred services i.e. cosmetic and plastic surgery as defined in Section 2 (Clause (29 A) of Sindh Sales Tax On Services Act, 2011. It includes services rendered by any person, in relation to aesthetic or cosmetic surgery or plastic surgery like abdominoplasty (tummy tuck), blepharoplasty (eyelid surgery), mammoplasty, buttock augmentation and lift, rhinoplasty (reshaping of nose), otoplasty (ear surgery), rhytidectomy (face lift),

liposuction (removal of fat from the body), brow lift, cheek augmentation, facial implants, lip augmentation, forehead lift, cosmetic dental surgery, orthodontics, aesthetic dentistry, laser skin surfacing, hair grafting, hair transplant and such other similar surgery. This insertion in the description of the referred Tariff Heading made by notification of 18.07.2016 and as a consequence whereof the impugned show-cause notice was issued.

8. As claimed, above surgeries are thus not those which are covered/exempted such as lifesaving surgeries (as claimed to have been exempted). Without commenting or dilating upon such surgeries being exempted, we have only confined ourselves to deal with the present issue as to whether the subject surgeries, as highlighted in the Tariff Heading, are exempted or otherwise. There is no such exemption provided/placed before us, rather the insertion in the Second Schedule under the relevant Tariff Heading enabled the officer to issue subject show-cause notice under section 24-B of the *ibid* Act.

9. There is nothing specifically pointed out by the counsel in the judgment cited by him. Article 9 of the Constitution of Islamic Republic of Pakistan, 1973 from its bare reading does not provide any cushion for declaring the subject notice or relevant provisions of Sindh Sales Tax on Services Act, 2011 as being contrary to law. A class of qualified surgeon performing specific surgeries/cosmetic surgery have been issued notices and this does not amount to a violation of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, as a class of individuals have been encompassed.

10. There is also nothing in terms of Article 9 of the Constitution of Islamic Republic of Pakistan, 1973, which could come to rescue the petitioner.

11. The petitioner has been enjoying interim order since last five years and has been rendering such services without being subjected to Sindh Sales Tax on Services Act 2011, though he has failed to make out any case of exemption, as has been observed above. Consequently we deem it appropriate to dismiss this petition along with pending application with cost of Rs.10,000/- to be deposited with High Court Clinic within two weeks.

12. Above are reasons of our short order dated 23.09.2021.

Dated:

Judge

Judge