

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
C.P No. D-7937 of 2019

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DATE

ORDER WITH SIGNATURE OF JUDGE

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Present: Mr. Justice Muhammad Junaid Ghaffar  
Mr. Justice Agha Faisal

1. For hearing of CMA No. 35021/2019.
2. For hearing of Main Case.

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**14.10.2020.**

Mr. Iftikhar Hussain and Mr. Fazal Muhammad Sherwani, Advocate for Petitioner.  
Mr. Muhammad Aqeel Qureshi, Advocate for Respondent No.2.  
Mr. Muhammad Ahmar, Assistant Attorney General.

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**ORDER**

***Muhammad Janaid Ghaffar J.*** Through this Petition, the Petitioner has impugned the action of Respondents, whereby, the Petitioner's status for the purposes of Sales Tax Registration has been changed from "Manufacturer" to an "Importer".

2. Learned Counsel for the Petitioner submits that on 02.05.2019, the Online Verification System of FBR Portal showed the Petitioner's registration as a Manufacturer; however, suddenly on 12.06.2019, it has been changed from "Manufacturer" to "Importer" without providing any opportunity of hearing or confronting the Petitioner as to such an adverse action. According to him, the action is also violative of Rule 7(4) of the Sales Tax Rules, 2006. He submits that pursuant to Orders of this Court, a verification exercise has also been carried out, which is also in favour of the Petitioner. In support he has relied upon Order dated 08.05.2019 passed in C.P No.D-6525/2018 on identical facts.

3. On the other hand, learned Counsel for the Respondents has opposed this Petition and relies upon the comments filed thereon and further submits that on inspection it has been found that the Petitioner is not conducting any manufacturing activity, and therefore, the Petition is liable to be dismissed.

4. Learned Assistant Attorney General has candidly conceded and submits that the Petitioner is entitled for a Notice before adverse action is taken against him.

5. We have heard both learned Counsel as well as learned Assistant Attorney General and have perused the record. It is not denied that the status of the Petitioner has been changed from “Manufacturer” to “Importer” in the Computer system of FBR and apparently no notice of any sort has been issued nor any copy has been placed on record. Comments were filed and Para-3 of the Comments clearly reflects that though the machinery was found available at the premises; but was covered with soot and dust and on such basis it has been presumed that no manufacturing activity is going on. The law, in this regard, is very clear and Rule 7(4) (ibid) provides that in case there is change in the particulars stated in the Registration Certificate, the Commissioner based on the available information or particulars after making enquiry and ***after providing reasonable opportunity of being heard***, may pass an order in writing, making modification and changes in the Registration Certificate. This exercise has admittedly not been undertaken in this matter and the status has been changed without notice and without any order in writing. A learned Division Bench of this Court in C.P No.D-6525 of 2018 vide Order dated 08.05.2019 has also dealt with an identical issue and has been pleased to observe that such conduct on the part of respondents cannot be sustained without following due process of law.

6. In view of above, the Petition is allowed and Respondents are directed to restore the status of the Petitioner as prevailing on 2.5.2019 i.e. Manufacturer within seven days from the date of this Order and shall submit compliance report through MIT of this Court. However, it is clarified that the respondents will be at liberty to proceed against the petitioner in accordance with law by adopting legal course for the purposes of change of status of the petitioner as noted hereinabove and after providing an opportunity of being heard.

7. Petition stands disposed of alongwith listed application as above.

Judge  
Judge