

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**Special Sales Tax Reference Application No.19 of 2022**

---

**Order with Signature of Judge(s)**

---

1. For hearing of main case.
2. For hearing of CMA No.42/2022 (Stay)

----

**24.03.2022.**

Mr. Parvez Iqbal, Advocate for the applicant.  
Mr. Irfan Mir Halepota, Advocate for the respondents.

----

Through the instant Special Sales Tax Reference Application (SSTRA) certain questions of law have been raised. At the very outset the counsel appearing for the applicant was directed to show from the order that the questions which are raised in the present SSTRA were argued, dilated upon, discussed and decided by the Tribunal, to which he candidly conceded that though certain grounds were taken before the Tribunal but except one ground with regard to input adjustment the other issues taken up before the Tribunal were neither discussed nor deliberated and adjudicated upon by the Tribunal. He was again asked that if those issues were neither discussed nor adjudicated or dilated upon by the Tribunal how these questions of law raised in the present SSTRA could be said to be arising out of the order of the Tribunal. No plausible explanation in this regard is available with the counsel. He was again asked that if the issues raised by the applicant were neither deliberated upon nor discussed by the Tribunal as to why no rectification application has been moved to the Tribunal and as to how this SSTRA is maintainable, to which he replied that if directions are issued, he will file the rectification application to the Tribunal.

The counsel appearing on behalf of the respondents, on the other hand, has stated that the questions raised in the present SSTRA could not be said to be arising out of the order of the Tribunal as admittedly these were

neither discussed nor adjudicated upon by the Tribunal, hence the applicant rather than approaching this Court by filing this SSTRAs should have moved rectification application to the Tribunal in accordance with law.

We have heard both the counsel at some length and have also perused the record.

It is an admitted position that the questions of law now raised through this SSTRAs were neither deliberated upon nor decided and adjudicated upon by the Tribunal hence it could not be said that the present questions of law are arising out of the order of the Tribunal and in our view the proper remedy available to the applicant is to file a rectification application before the Tribunal inviting its attention to this very aspect and thereafter get the matter decided in accordance with law. Hence, the instant SSTRAs in its present form is not maintainable, the same, therefore, stands dismissed along with the listed application. However, the applicant would be at liberty to seek the legal remedy as available to it under the law.

Judge

Judge