

ORDER SHEET

HIGH COURT OF SINDH AT KARACHI

C.P.No.D-1565 of 2016

Date Order with signature of Judge

FOR HEARING OF CASES.

1. For orders on CMA No.6670/06 (Stay)
2. For Hearing of Main Case.

02.05.2017.

Ms. Lubna Pervez, Advocate for the petitioner.

Mr. Ashfaq Ahmed Janjua, Assistant Attorney General for respondent No.1.

Mr. Altamash Arab, advocate for respondents No.2 to 4.

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The petitioner has agitated that the President of Pakistan, while passing the impugned order on the Representation decided by the Federal Tax Ombudsman in favour of the Respondent-Department, has not given opportunity of hearing to the respective petitioner. Learned counsel for the petitioner, in this behalf, has placed reliance on the decision given in the case of Messrs. Siddiqsons Weaving Mills (Pvt.) Limited through Director Vs. Federation of Pakistan through Secretary Law, Justice and Human Rights, Islamabad (PLD 2005 Karachi 656) and has stated that since the petitioner was not given an opportunity of hearing, which is violation of the principle of "audi alterum partum", therefore, the order passed by the President of Pakistan is not in accordance with law and needs to be vacated. It is further contended that the issue involved in this petition has since been laid at rest in the above referred decision, therefore, the instant petition may be disposed of in the light of the above-referred decision.

Learned counsel for the respondents have conceded that no opportunity of hearing was provided to the petitioner by the President of Pakistan, while passing the impugned orders. They have, however, stated that this is not a fatal defect and the same can be cured if the matter is remanded back to the President of Pakistan to pass afresh order after providing an opportunity of hearing to the petitioner in accordance with law.

We, after hearing the learned counsel for the parties at some length, decide the instant petition with their consent as under:-

1. *That the matter of the petitioner may be heard afresh by the President of Pakistan in accordance with law after providing opportunity of hearing to him.*

2. *That the issue with regard to the limitation or other issues would also be considered and decided by the President of Pakistan in accordance with law while deciding the Representation.*

The instant petition stands disposed of along with the listed application in the above terms.

JUDGE

JUDGE