

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

PRESENT:

Mr. Justice Aqeel Ahmed Abbasi
Mr. Justice Mahmood A. Khan, JJ

C.P. No.D-1882 of 2017 alongwith C.P. No.D-5857/2016,
C.Ps. Nos.D-171, 1882, 7811, 8482, 8907 of 2017,
C.Ps. Nos.D-221, 2073, 2481, 2645, 2922, 3214, 3501, 3510, 3599,
3694, 3700, 3821, 3933, 3972, 4158, 4336, 4339, 4342, 4454, 4455, 4456,
4526, 4537, 4551, 4679, 4987, 5204, 5315, 5495, 5528, 5887, 6249, 6426,
6454, 6521, 6598, 6832, 6880, 7034, 7035, 7302, 7394, 7590, 7696, 7801,
7977, 8214, 8366, 8668, 8768, 8826, 8930, 8965 of 2018,
C.Ps. Nos.D-25, 312, 357, 725, 785, 1078, 1092, 1216, 1243, 1275,
1428, 1451, 1463, 1548, 1694, 1928, 2000, 2001, 2053, 2269, 2341, 2639,
2680, 2689, 2726, 2732, 2736, 2737, 2738, 2739, 2740, 2812, 2853,
2929, 2945, 3326, 3571, 3593, 3636, 3667, 3776, 3881, 3947, 4007, 4098,
4142, 4191, 4199, 4315, 4420, 4427, 4548, 4549, 4663, 5010, 5019, 5936, 5974,
6335, 6518, 6576, 6990, 8311, 8316 and 8454 of 2019, 104 & 274 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGES

31st January 2020

For petitioners:

Mr. Arsahd Siraj Memon, Advocate
Mr. Ammar Naseer, Advocate
Qazi Umair Ali, Advocate.
Mr. Ovais Ali Shah, Advocate
Mr. Zain A. Jatoi, Advocate
Mr. Arshad Hussain Shahzad, Advocate
Mr. Jawaid Farooqui, Advocate
Mr. Sami-ur-Rehman Khan holds brief for
Mr. Ali Almani, Advocate.
Mr. Saleem-ul-Haq, Advocate holds brief for
Mr. Amjad Jawaid Hashmi, Advocate.
Mr. Faisal Shahzad, Advocate.
Mr. Muhammad Aleem, Advocate.
Mr. Aatir Aqeel Ansari, Advocate
Mr. Darvesh K. Mandhan, Advocate.
Mr. Nadir Khan Burdi, Advocate.
Mr. Ajmal Awan, Advocate.
Mr. Muhammad Faheem Bhayo, Advocate.
Mr. Muhammad Din Qazi, Advocate.
Mr. Taimor Ahmed Qureshi, Advocate.
Mr. Ajeet Kumar, Advocate.
Mr. Nadir Ali Abro, Advocate.
Sayeed Mohsin Ali, Advocate.
Mr. Uzair Shoro, Advocate.
Mr. Khalid Jawed Khan, Advocate.

Mr. Rizwan Ahmed, Advocate.
Mr. Liaquat Hussain Khan, Advocate.
Mr. Asfand Yar Jahangir, Advocate.
Mr. Muhammad Yousif Khan Sherwani, Advocate.
Mr. Shahzad Rabbani, Advocate.
Mr. Shujat Abbas, Advocate.
Mr. Abdul Ahad, Advocate.
Mr. Rashid Mahar, Advocate.
Mr. Ghulam Hussain Shah, Advocate.
Mr. Younis Khan Sherwani, Advocate.
Mr. Ghazain Magsi, Advocate.
Ms. Afsheen, Advocate holds brief for
Khawaja Naveed Ahmed, Advocate.
Mr. Ayaz Shoukat, Advocate.
Mr. Ghulam Nabi Shar, Advocate.
Mr. Abdul Jabbar Mallah, Advocate.
Mr. Shafqat Zaman, Advocate.
Syed Irshad-ur-Rehman, Advocate alongwith
Mr. Muhammad Waleed, Advocate.
Syed Amir Ali Shah, Advocate.

For respondents:

Mr. Ghulam Murtaza Korai, Advocate
Mr. Shamshad Ahmed Narejo, Advocate
Mr. Saifullah, Asst. Advocate-General Sindh.
M/s. Zameer A. Khalid, Commissioner and Syed Zain-ul-
Abdin Shah, Deputy Commissioner from Sindh Revenue
Board are present.
Mr. Usman Hadi, Asst. Attorney General.

1. All the learned counsel for the parties as well as learned Asst. Advocate General present in Court in these petitions are in agreement for disposal of instant petitions in terms of order dated 23.01.2020 passed by this Court in these cases, however, with a minor amendment to the effect that in cases wherein, during pendency of the appeal(s) before the Commissioner (Appeals), Sindh Revenue Board, an adverse order has already been passed on the stay application(s) against the petitioner(s), the respondents may be restrained from enforcing the recovery of impugned demand(s) for a period of seven (7) days from the date of this

order, to enable the petitioner(s) to seek further remedy against recovery of the impugned demand(s), as may be available to the petitioner(s), in accordance with law by approaching the relevant statutory forum or the competent Court of jurisdiction.

2. Accordingly, by consent of all the learned counsel for the parties present in the instant petitions and keeping in view the amendment introduced in Section 66 of the Sindh Sales Tax on Services Act, 2011 through Finance Act, 2019, whereby, during the statutory period of thirty (30) days for filing appeal(s), the recovery of the impugned demand(s) could not be effected, all these petitions are disposed of with the direction that respondents shall not enforce the recovery of the impugned demand(s) till final decision(s) in appeals by the Commissioner (Appeals), Sindh Revenue Board or the decision(s) on the stay application(s) filed by the petitioner(s), whichever is earlier. Whereas, in case of any adverse order, if passed by the Commissioner (Appeals), Sindh Revenue Board, respondents shall not enforce the recovery of impugned demand(s) for another period of seven (7) days from the date of receipt of such appellate order(s) by the petitioners, to enable the petitioner(s) to seek further remedy against such order(s) in accordance with law. However, in cases, in which an adverse order has already been passed by the Commissioner (Appeals), SRB, on stay application(s), period of seven (7) days will commence from the date of this order. The above order would apply in rem in respect of all the appeals pending or as may be filed in due course before the Commissioner (Appeals), SRB, to avoid further litigation in this regard.

It is, however, clarified that disposal of instant petitions in above terms is without prejudice to the right of an aggrieved party, including petitioner(s) in appropriate proceedings to challenge the amendment introduced in Section 66 through Finance Act, 2019, or to raise any additional ground(s) for challenging the recovery of impugned demand(s) during pendency of appeal(s) either before the Commissioner (Appeals), Sindh Revenue Board or before the Appellate Tribunal, Sindh Revenue Board, in accordance with law, and will not affect the decision(s) in such cases, if filed by the petitioner(s), which may be decided, without being influenced by disposal of instant petitions in the above terms.

3. Accordingly, all the above petitions stand disposed of in aforesaid terms alongwith listed application(s).

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