

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

C. P. No. D-4918 of 2020

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

Mst. Rais Fatima.....Petitioner

Versus

Government of Pakistan, through
Finance Secretary, Islamabad & others.....Respondents

Petitioner, in person.

Kazi Abdul Hameed Siddiqui, DAG, along with Ghulam Farooque and Iqbal Ahmed, Officers-in-Charge of National Savings Center, Rizvia Market, Karachi and National Savings Officer, Malir, Karachi, respectively.

Date of hearing : 08.03.2023.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioner claims to have invested a sum of Rs.9,350,000/- in Defence Saving Certificates (“**DSCs**”) with effect from 10.06.2009 at various National Defence Saving Centers across Karachi (namely the Centers at Shaheed-e-Millat Road, Gulshan-II, P.I.B Colony, Malir Halt, Rizvia Market, and Jamshed Road) with it being alleged that payment of profit on the DSCs is being wrongly withheld/stopped and it being prayed that the directions be issued to the Managers/Officers In-charge of those Centers, arrayed as the Respondents Nos. 3 to 8, to return the DSCs along with due profits to-date.

2. Whilst the particulars of the DSCs have not been set out in the body of the Petition, photocopies of various Certificates have been filed, which are evidently Behbood Saving Certificates (“**BSCs**”). The comments forthcoming on behalf of the various Centers also makes such a distinction, which is of particular importance in light of the legal framework underpinning those particular instruments.

3. The learned DAG, assisted by the functionaries of some of the Centers, invited attention to the comments of the Respondents Nos. 1 and 3 to 8, reflecting the relevant framework governing the BSCs, with attention being drawn in particular to Rules 6 and 7 of the BSC Rules, 2003, which provide as follows:

6. The certificates shall be issued for a period of ten years, with a minimum deposit of five thousand rupees and multiple thereof subject to maximum limit of five million rupees and ten million rupees for joint holders.

Provided that none of the holder shall, under any circumstances, hold more than Rs.5,000,000/= whether held wholly under his/her own name or jointly with another. For the purpose of calculating the individual holding, when two persons hold jointly, one half of the holding shall be assumed to belong to each.

7. If through any cause, the total holding of any purchaser under a single name or in joint names is discovered to be in excess of the limits prescribed in rule 6 whether as a result of :--

- a) direct deposit; or
- b) receipt by transfer; or
- c) inheritance, or award,

the purchaser concerned shall be bound immediately to discharge the excess holding and no profit shall be paid on the amount in excess of the maximum permissible limit”.

4. With reference to the aforementioned Rules, it was submitted that BSCs were a special nature of instrument for the benefit of a particular class of individuals, including senior citizens. Hence, such an investment carried a higher rate of return than other government securities, but was subject to a maximum limit per person, with any acquisition of BSCs over that limit rendering the investment irregular. Whilst errant investments across multiple Centers may have previously remained undetected prior to their records being computerized and interlinked, anomalies were now detectable and warranted appropriate action to recover the excess profits paid. The consolidated comments go on to explain the position vis-à-vis the Petitioner on the basis of those Rules, with the relevant excerpts reading as follows:

“Factual position is that the name of scheme in which the petitioner has made investment is Behhood Saving Certificate (BSC) and not the Defence Savings Certificate (DSC) as has been mentioned by the petitioner in this Para. The scheme of Behhood Savings Certificate (BSC), including Pension Benefit Account (PBA) & Shuhada Family Welfare Account (SFWA) have specifically been introduced for senior citizens / widows / disable persons, retired Government Pensioners & eligible members of Shuhada family respectively. That’s why, the rate of return on said schemes is on higher side as compared with other NSS, meant for general investors. Moreover, all these schemes are exempted from withholding tax and Zakat. However, there is certain limit for investment in these schemes i.e. Rs.3,000,000 upto 30.06.2015 and then for Rs.4,000,000 & Rs.5,000,000 on 01.07.2015 and 01.07.2016 respectively. The petitioner in order to avail higher rate of return invested in BSC in different NSCs by crossing the prescribed limit.”

“The above said rules position binds the investor that he can hold BSCs to maximum prescribed limit of Rs.3,000,000 upto 30.06.2015 and then for Rs.4,000,000 & Rs.5,000,000 upto 01.07.2015 and 01.07.2016 respectively. Whether held through direct deposit; or receipt by transfer; or inheritance, or award.

Though the above said rule requires for paying no profit on deposits made above the prescribed limit in BSC, yet on compassionate grounds, the investors concerned are being compensated by paying the profit of other scheme for which he was eligible. Therefore the profit received on BSCs beyond the prescribed limit shall be recovered and profit at the rate of RIC as was prevailing on the date of purchase of such BSCs will be paid. However, the difference (BSC rate Minus RIC rate) have to be recovered and adjusted simultaneously.”

“The investment of Petitioner viz Raees Fatima is being irregular investment Rs.10,550,000/= was not eligible to invest in Bahbood Savings Certificates. As such, she was not entitled for the profit at the rate prescribed for the said scheme and in terms of Rule 8 of BSC Rules, 2003 she was required to refund the entire profit already received by her on the said regular investment. However, Finance Division has compensated the investor of such irregular investment purely on compassionate grounds by offering them the profit of Regular Income Certificates which is otherwise highest payment scheme for general investors, in terms of policy decision circulated vide CDNS, Islamabad letter No.F-12(S-1)/AC/2013 dated 26.03.2013.”

5. In light of the comments, the learned DAG submitted that the case of the Petitioner would be processed in accordance with the Rules and the BSCs could be encashed by her subject to the applicable codal formalities.
6. Under the given circumstances, we see no force in the Petition and dismiss the same accordingly.

JUDGE

CHIEF JUSTICE

Karachi.
Dated: