

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
C.P Nos. D- 669 & 676 of 1996

Date	Order with signature of Judge
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**Hearing of Cases.**

1. For hearing of Misc. No. 1890/1996.
2. For Regular hearing.

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**16.03.2023.**

Mr. Asif Memon along with Mr. Mushtaq A. Memon, Advocate for Petitioners.

Mr. Asif Ali Siyal, Advocate for respondent No.3.

Mr. Adnan Ahmed Zafar, Advocate for respondent No.5.

Mr. Qaim Ali Memon, Advocate for respondent.

Mr. G.M Bhutto, Assistant Attorney General.

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On 16.02.2023 we had partly heard Mr. Asif Memon Advocate for the Petitioner and following order was passed on 16.02.2023:-

“Mr. Asif Ali Siyal, advocate has effected appearance and files Vakalatnama on behalf of the respondent No. 3 in both the petitions which is taken on record.

Learned counsel for the petitioners has made part submissions, whereas, the learned counsel for the petitioner shall come prepared as apparently the issue in hand already stands decided by this Court in the case of *Hashwani Hotels Ltd vs Govt of Pakistan (2004 PTD 901)* and upheld in *2007 SCMR 1131*.

For further arguments to come up on 16.03.2023 @ 11:00 am. Office to place copy of this order in the connected petition listed above.”

Today, he has made an attempt to distinguish the aforesaid judgment(s) passed by this Court and upheld by the Supreme Court; by placing reliance on an order dated 31.10.2008 passed in C.P No. D-3255 of 1993. However, on perusal of the said order and inspection of the file in Chambers, it appears that the said order is of no help to the case in hand inasmuch as the issue in that case was that whether, the exemption under SRO 212(I)/1991 and 213(I)/1991 both dated 14.03.1991 was available only to new Tourism Projects or to also existing Tourism Projects; whereas, in the instant petitions, the issue is identical to the one already decided in the above cases (*Hashwani Hotels Ltd vs Govt of Pakistan (2004 PTD 901)* and upheld in *2007 SCMR 1131*) as to applicability of the second Proviso to Section 5(2) of the Sales Tax Act, 1990. It further appears that this

contention of the Petitioners' Counsel is also belied from the fact that when ad-interim order was obtained in this case on 21.05.1996, reliance was placed on an identical pending petition bearing C.P No.D-615 of 1996, which is the petition in which the above judgment reported as ***Hashwani Hotels Ltd.*** (supra) has been delivered.

We may say that we are not impressed by the submissions made today by the Counsel, and perhaps, expected a better assistance as to our above order.

In view of the above facts and circumstances, since identical issue stands decided against the Petitioners, by this Court and upheld by the Supreme Court, by following the said dicta laid down in the case of ***Hashwani Hotels Ltd.*** (supra); both listed petitions stand dismissed with pending application(s).

Office to place copy of this order in the connected petition, as above.

***Judge***

***Judge***

***Ayaz***