

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
SPL. S. T. R. A. NO. 1558 / 2023

Date

Order with signature of Judge

FRESH CASE

- 1 For orders on office objection No. 19 & 26.
- 2) For orders on CMA No. 3954/2023.
- 3) For hearing of main case.

06.11.2023.

Mr. Munawar Ali Memon, Advocate for Applicant.

1, 2 & 3. Through this Special Sales Tax Reference Application, the Applicant Department has impugned order dated 12.06.2023 passed by the Appellate Tribunal Inland Revenue at Karachi in STA No. 139/KB-2023 proposing various questions of law; however, the only question which arises from the impugned order is that *“Whether in the facts and circumstances of the case, the Tribunal was justified in holding that Respondent was entitled for input tax claimed?”*. The case of the Applicant / Department appears to be that input tax could not have been claimed as the suppliers / buyers were blacklisted or were non-active; however, the Tribunal has given a categorical finding of fact that it was otherwise. In Paragraph 8 of the impugned order, the Tribunal has held that, *none of the buyer was either blacklisted, suspended and on-active at the time of relevant transactions.*

In view of such position, we do not see that any question of law; or for that matter the question framed by us as above has arisen out of the order of Tribunal as a finding of fact has been recorded against the Department, whereas, it is now settled law that the highest authority for factual determination in tax matters is the Tribunal¹. Accordingly, the proposed questions cannot be answered; hence, this Reference Application is dismissed in *limine*.

Office shall send copy of this order to the Appellate Tribunal in terms of Section 47(5) of the Sales Tax Act, 1990.

J U D G E

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¹ Commissioner Inland Revenue v RYK Mills Lahore; (SC citation- 2023 SCP 226); Also see Commissioner Inland Revenue v. Sargodha Spinning Mills, (2022 SCMR 1082); Commissioner Inland Revenue v. MCB Bank Limited, (2021 PTD 1367); Wateen Telecom Limited v Commissioner Inland Revenue (2015 PTD 936)

Arshad/