

ORDER SHEET

**IN THE HIGH COURT OF SINDH, KARACHI**  
Special Sales Tax Ref Application No.734 of 2015

---

Date Order with signature of Judge

---

For hearing of main case

06.12.2023

-----

None present on behalf of the Applicant nor any intimation received. However, on perusal of the record it appears that the proposed question (ii) i.e. ***“without prejudice to the above, whether learned ATIR was justified to allow input which is not admissible u/s 8(1)(ca), of the Sales Tax Act, 1990 as the tax was not deposited in the Government Treasury by the suppliers?”*** has already been decided and answered against the Applicant department in the case of Total Parco Pakistan<sup>1</sup> by holding that *“Therefore, we are of the considered view that instead of declaring the impugned provision of s.8(1)(ca) of the Act as being ultra vires or unconstitutional; we would rather save it and read it down, in the manner, that it cannot be invoked or applied independently in isolation and has to be read with Section 8A; and can only be invoked against the petitioners, once an exercise has been carried out and a conclusive finding has been arrived at against them pursuant to section 8A of the Act”*, whereas, a Civil Petition for Leave to Appeal against the said judgment stands dismissed by the Supreme Court<sup>2</sup>.

In view of such position, the question as above is answered against the Applicant department and in favour of the Respondent, and in view of this, the remaining questions need not to be answered. The Reference Application is hereby dismissed.

Let copy of this order be sent to the Tribunal in terms of Section 47(5) of the Sales Tax Act, 1990

JUDGE

JUDGE

Aadil Arab

---

<sup>1</sup> PTCL 2021 CL 576

<sup>2</sup> CP No 4589 of 2021 dismissed vide order dated 25.10.2023