

IN THE HIGH COURT OF SINDH, KARACHI
Constitution Petition No. D- 760 of 2024

Date

Order with signature of Judge

Present: *Mr. Justice Muhammad Junaid Ghaffar*
Mr. Justice Adnan-ul-Karim Memon.

Petitioner:

Fahad Nasir
Through Mr. Mushtaq Hussain
Qazi, Advocate.

Respondents:

The Federation of Pakistan &
others.

Date of hearing:

14.02.2024.

Date of Order:

14.02.2024.

ORDER

Muhammad Junaid Ghaffar, J: Through this Petition, the Petitioner has impugned Notice dated 30.01.2024 issued by the Respondents under Section 37 of the Sales Tax Act, 1990. While confronted as to maintainability of this petition, learned Counsel for the Petitioner submits that allegedly some fraud has been committed by one M/s. Shah Brothers being involved in tax fraud in issuing fake invoices; whereas, the Petitioner has no concern with M/s. Shah Brothers. He further submits that the investigation carried out by the department pursuant to an FIR has been completed and one M/s. U & I Garments Private Limited is also nominated in the FIR and Challan for having utilized such fake invoices with M/s. Shah Brothers; whereas, the Petitioner has been summoned through impugned notice on the ground that the Petitioner has made some supplies to the M/s. U & I Garments Private Limited. According to him, the Petitioner has no concern with the alleged fraud; hence the impugned notice is based on malafide and has been issued without lawful authority. He further submits that in investigation before the Special Judge, there is no evidence against the

present petitioner; hence, the impugned notice cannot be acted upon.

2. Heard learned Counsel for the Petitioner on maintainability of the Petition. On perusal of the impugned Notice, it appears that the Petitioner has only been asked to furnish certain documents as apparently while investigating the matter in respect of M/s. U & I Garments Private Limited, it has transpired that the Petitioner has made supplies of Rs.2,365,375,593/- involving sales tax of Rs.405,864,214/-, and therefore, we do not see any reason to interfere presently in the instant matter as otherwise the notice has been issued lawfully. It has not been denied that the Petitioner has made supplies to M/s. U & I Garments Private Limited, who has claimed input tax adjustment and or refund on the basis of such supplies; whereas, in totality there is an allegation against M/s. U & I Garments Private Limited as to claiming inadmissible input tax adjustment. In that case, the information sought from the Petitioner is *sine qua-non* for further investigation against M/s. U & I Garments Private Limited.

3. In view of the above facts, we do not see any reason to exercise our discretion in the matter as the Petitioner is only required to respond to the impugned notice; hence the Petition being premature and without accrual of a cause of action was dismissed in *limine* as being not maintainable in the earlier part of the day and these are the reasons thereof.

J U D G E

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