

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Sales Tax Reference Application No. 258 of 2017

Date

Order with signature of Judge

HEARING OF CASE:

1. For order on office objection.
2. For Regular Hearing.
3. For hearing of CMA No.2130/2017 (Stay).

Dated; 23rd October 2024

Mr. Khalid Jawed Khan alongwith Mr. Uzair Qadir Shoro, Advocate for Applicant.

Ms. Dilkhurram Shaheen, Advocate for Respondent No.1.

Deputy Commissioner, MTO Zone-I, Karachi, namely, Abdul Aleem Qureshi, present in person.

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On the last date of hearing following order was passed: -

“Mr. Khalid Javed Khan, advocate for Applicant has made his part submissions and has relied upon a recent Order-in-Original No.18 of 2023 dated 15.05.2024 whereby the Department has accepted the contention of the Applicant in respect of exemption of sales tax on Saniplast and Uniplast (First Aid Bandages). When confronted, Department’s Counsel needs time to seek instructions on the said order. Time allowed.

*To come up on **23.10.2024 at 11.30 a.m.** Interim order passed earlier to continue till the next date of hearing.”*

2. Today, learned counsel for the Respondents as well as departmental representative have not come with any response in writing.

3. Heard learned counsel for the parties and perused the record. The issue in this matter is in respect of exemption of sales tax on Saniplast and Uniplast (First Aid Bandages) and it appears that during pendency of this Reference Application, in another set of Adjudication proceedings regarding the same issue, an Order-in-Original No.18 of 2023 dated 15.05.2024 has been passed and the contention

of the present Applicant in respect of exemption of Sales Tax regarding the same product has been accepted by the department in the following terms: -

“3. Classification of Saniplast and Uniplast:

The registered person was confronted regarding classification of Saniplast and Uniplast adhesive plaster. The shows cause notice contends that these products are "adhesive plasters" which are excluded from exemption under Sr. No. 104, while the Registered Person maintain they are "bandages" eligible for exemption.

The Registered Person placed reliance on clarification letter issued by DRAP dated 18th July 2016 which stated that saniplast and uniplast are first aid bandages and are completely different from Surgical Tape and Adhesive plaster".

Furthermore, the Registered Person relies on the United States Pharmacopeia (USP), recognized as an "authentic pharmacopoeia" under Section 3(z)(ii) of the Drugs Act, 1976, which distinguished "bandages" and "adhesive plasters" as distinct categories. The registered person highlighted this to be in conjunction with Section 3(g)(ii) of the Drugs Act, 1976, which lists "bandages" and "adhesive plasters" as separate entities within the definition of drugs.

In view of the above narrated facts, charge regarding short payment of sales tax to the extent of Rs. 65,940,244/- in addition to Further Tax at Rs. 11,636,514/- on account of misuse of the facility of exemption as granted to Drugs and Medicaments under S.No 104 of the sixth schedule to the Sales Tax Act, 1990 by way of claiming exemption to the manufactured products namely (i) Surgical Tapes (ii) Disinfectants (iii) Adhesive Plaster etc, as these products have been excluded from the purview of above said exemption, even if medicated or medicinal in nature in violation of sections 3, 3(1A), 6, 13, 23 & 26 read with Section 2(41) of the Sales Tax Act, 1990 stands explained and withdrawn accordingly.

07. Without prejudice to the above M/s. Uniferoz (Private) Limited, Karachi bearing NTN 1310728-3 is not entitled to absolve itself from any proceedings initiated on the similar/other issues for the above mentioned prior and subsequent tax periods.

08. This order contains (76) seventy six pages and each page contains my signature and seal.”

4. Since the Department has already accepted the contention of the present Applicant, whereas as of today, admittedly the said order is in field, with which we are fully in agreement, therefore, we do not see any reason to further

adjudicate the matter; hence the proposed questions are answered in favour of the Applicant and against the Respondents and consequently the orders passed by the forums below are hereby set-aside. This Reference Application is **allowed** in the above terms.

5. Let copy of this order be sent to the Appellate Tribunal Inland Revenue of Pakistan, Karachi in terms of sub-section (5) of Section 47 of the Sales Tax Act, 1990.

JUDGE

JUDGE

Farhan/PS