

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitution Petition No. D- 328 of 2025

Date	Order with signature of Judge
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Priority.

1. For Orders on office objection.
2. For hearing of CMA No. 1602/2025.
3. For hearing of main case.

04.03.2025.

Mr. Qazi Umair Ali, Advocate for Petitioner.
Mr. Ghulam Ashgar Pathan, Advocate along with Mr. Hammal Baloch,
Commissioner, Zone-III, RTO, Karachi.

It appears that on 28.01.2025, Counsel had affected appearance on behalf of concerned Commissioner and he was confronted regarding any action taken by the department as to return of documents so seized under Section 38 of the Sales Tax Act, 1990 and he sought time to seek instructions. On 13.02.2025, Counsel was not in attendance and brief was held; whereas, Court was not informed as to whether the seized documents were returned or not. Today, Petitioner's Counsel has placed on record Letter dated 19.02.2025 issued by Mr. Shaharyar Ahmed, Assistant Commissioner-IR, Unit-07, Zone-III, RTO-II, Karachi. The said letter reads as under:-

**“OFFICE OF THE ASSISTANT COMMISSIONER-IR, UNIT-07, ZONE-III REGIONAL
TAX OFFICE-II, KARACHI**

C.No.(462)SO-Legal/Zone-III/RO-II/2024-25/570,

Dated: 19/02/2025

To,

Mr. Qazi Umair Ali,
Hafeez Pirzad Law Associates,
7-A, First Sunset Street DHA, Phase-II,
Karachi.

Subject:- Request for returning of Documents taken in Raid.

Please refer to your letter dated: 11.02.2025 on the subject noted above.

02. It is intimated that the record taken in custody is voluminous and scrutiny is underway. However to facilitate the taxpayer, he may collect photocopies of the record. For this purpose, you are intimated that the person authorized by taxpayer, may collect the photocopies of required record from the office of undersigned situated at Room # 314, 3rd Floor, Inland Revenue House, Plot # 16/17, Block-15, Gulistan-e-Johar, Karachi.

03. Your co-operation in this regard will highly be appreciated.

(SHAHAR YAR AHMED)
Assistant Commissioner-IR
Unit-07, Zone-III, RTO-II, Karachi"

The Court was not satisfied with such reply and Counsel was asked to call the concerned official and now Mr. Hammal Baloch, Commissioner, Zone-III, Karachi is in attendance; whereas, Counsel as well as the officer submit that record is available and can be collected. However, the provisions of Section 38 of the Act are clear inasmuch as the record can only be taken into custody either in original, or in the form of copies, against a signed receipt. This in our view, must be done at the time of taking custody of the record and not thereafter. In this case seizure has been made under the garb of Section 38 of the Act, which otherwise only permits access to the record and not its seizure; but nonetheless such record so resumed has not been returned as yet, though the office was raided on 21.01.2025. Such conduct on the part of the department is highly deprecated and is a matter of concern since the provisions under question do not permit them to act in this lethargic manner. After all, the record is the property of the Taxpayer and he has to perform several other functions including, but not limited to, maintaining accounts, preparing

returns and so on and so forth. A person cannot be put to the mercy of the officer concerned to claim his record and documents. Such conduct of the officer(s) is deprecated.

Today, the Counsel as well as the officer present submit that the record will be returned. Let the record, so resumed, be returned by today and compliance report be placed on record; whereas, a copy of this order be issued to Chairman FBR and Member (Operation) Inland Revenue to examine the conduct of the officer(s) while conducting such raids on the premises of the taxpayers and non-return of record / documents timely. In this matter such record has not been returned to the taxpayer despite lapse of **42** days; therefore, necessary action be taken against the delinquent officer(s) with compliance report to this Court.

To come up on **14.04.2025**. Interim order, passed earlier, to continue till the next date of hearing.

Acting Chief Justice

Judge