

THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

C.P. No. D – 4336 of 2025: Syed Haider Mehdi versus Federation of Pakistan and others.

C.P. No. D – 4337 of 2025: Arshad Shahzada versus Federation of Pakistan and others.

C.P. No. D – 4338 of 2025: Arshad Shahzada versus Federation of Pakistan and others.

Petitioners : Mr. Muhammad Inzamam Sharif,
Advocate in all the petitions.

Respondents : Rana Sakhat Ali and Faheem Raza,
Advocates.

Federation : Ms. Mehreen Ibrahim, Deputy
Attorney General for Pakistan.

Date of hearing : 11-12-2025

Date of decision : 11-12-2025

ORDER

Adnan Iqbal Chaudhry J. - These petitions pray for quashing separate FIRs lodged respectively on 20.06.2023, 22.02.2023 and 16.09.2024 by officers of the Inland Revenue for claiming fraudulent input tax adjustments which constitute the offence of tax fraud as defined in section 2(37) of the Sales Tax Act, 1990 [Act]. Though the Petitioners were not nominated in the FIRs, they were implicated in the crime by subsequent challans. The cases against them are pending before the Special Judge (Customs, Taxation and Anti-Smuggling), Karachi.

Apart from submissions on the facts of each case, learned counsel for the Petitioners relies on the case of *Directorate of Intelligence & Investigation-FBR v. Taj International (Pvt.) Ltd.* (2025 SCP 235), decided on 04.12.2024, where the Honorable Supreme Court of

Pakistan interpreted erstwhile provisions of the Sales Tax Act to uphold a 2013 verdict of the Lahore High Court that an FIR for tax fraud cannot be lodged against a registered person until his tax liability is adjudicated and assessed by the department under section 11 of the Act. Up until the judgment of the Supreme Court, the binding precedent in Sindh was the case of *Waseem Ahmad v. Federation of Pakistan* (2014 PTD 1733), decided on 20-03-2011, where a learned Division Bench of this Court had opined that criminal and civil adjudication proceedings for tax fraud can proceed side-by-side. Per the Petitioners, the enunciation of law by the Supreme Court would nevertheless operate retrospectively to hit the impugned FIRs lodged prior thereto. The Respondents, of course, submit that said enunciation operates prospectively.

In the present case, the Petitioners' tax liability was determined after the FIRs, respectively *vide* Order-in-Originals dated 29.02.2024, 19.04.2024 and 28.02.2025, which were appealed by them before the Appellate Tribunal Inland Revenue. The Respondents submit that since the Petitioners' tax liability stands determined before trial of the offence, the Supreme Court's pronouncement upon *Taj International* does not attract. On the other hand, the argument of the Petitioners appears to be that until they exhaust the *fora* provided in the Act against adjudication of tax liability, the criminal proceedings cannot subsist.

Without prejudice to the stance of either side, the fact of the matter remains that the Petitioners are not the only persons implicated in subject FIRs. There are several other accused persons who were part of the supply chain that was investigated. Some of the accused persons are not even registered persons under the Act, rather they had used CNICs of others for setting up dummy units that were then used for generating fake and flying sales tax invoices. It has yet to be seen whether the Supreme Court's pronouncement on *Taj International* was intended also for the latter category of accused persons. In other words, without examining the case of the prosecution against each accused person, there can be no omnibus

order to 'quash' the FIR only at the instance of the Petitioners. The remedy of the Petitioners is thus before the trial court by way of an application for acquittal under section 265-K Cr.P.C. Admittedly, they have yet to avail such remedy.

In view of the foregoing, these petitions are dismissed with the observation that the Petitioners are free to take all grounds being urged here before the trial court in applying under section 265-K Cr.P.C.

Office shall place a copy of this order in the connected petitions.

JUDGE

JUDGE

SHABAN*/SADAM