

IN THE HIGH COURT OF SINDH, KARACHI

C.P No. D- 5496 OF 2025
(H.M. Motors V. Federation of Pakistan & others)

Present:

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Muhammad Osman Ali Hadi

Date of hearing: 18.05.2026
Date of decision: 22.06.2026
Petitioner: Through Mr. M. Ahmed Masood,
Advocate.
Respondent No.3: Through Dr. Shahnawaz Memon,
Advocate.

JUDGMENT

MUHAMMAD OSMAN ALI HADI, J: - The instant petition has been filed against an Office Order dated 07.11.2025 (“**the Impugned Order**”),¹ passed by the Respondents/Federal Board of Revenue (“**FBR**”), in which the FBR nominated certain of their personnel to be appointed for purposes of monitoring the premises of seven (7) different business under section 40-B of the Sales Tax Act 1990, of which one business is the Petitioners’.

2. The counsel for the Petitioners has argued that the Impugned Order is contrary to the law, and goes against settled jurisprudence, as has been enunciated in the cases of *Agba Steel Industries*² and *Agro Industries*³ respectively, whereby the Petitioners allege that the Respondents had illegally raided the premises of the Petitioner, and have used such information retrieved from the alleged illegal raid, to post their officers upon the Petitioners’ premises, seeking shelter under section 40-B of the Sales Tax Act, 1990 (“**STA 1990**”).

3. He further submitted that this matter was settled by the Supreme Court in the case of *Commissioner Inland Revenue v. Pakistan Beverages Limited* (hereinafter referred to as the “**Pakistan Beverage Case**”).⁴ He stated that a

¹ Available at page-489 of the Court file

² Reported as 2019 PTD 2119

³ Reported as 2022 SBLR Sindh 322

⁴ Reported as 2018 SCMR 1544

perusal of the Impugned Order would show that it is an omnibus order, encompassing several business (seven in number), for purposes of monitoring, which is against the spirit of the law. He asserted that if a monitoring order is passed under section 40-B STA 1990, it is incumbent upon the FBR to provide specific reasons for posting any officers upon specifically mentioned premises, and the same cannot be done in a general manner as the FBR have done in the Impugned Order. Learned counsel has referred to the *Pakistan Beverages Case* (Supra) judgment of the Supreme Court, as well as a Judgement of the Federal Constitutional Court in F.C.P.L.A No. 23 of 2026, in which he submits that the conditions of posting officers is provided, and a requirement of prior notice needs to be given, as well as a timeline provided, which was not done in the instant matter. He concluded by submitting that the Respondents have failed to adhere in both letter and spirit of the STA 1990 when issuing the Impugned Order, which is therefore void as it is contrary to statute.

4. Learned counsel for the Respondents argued that the FBR has discretion under the STA 1990, permitting them to post their officers on the premises of any registered persons,⁵ where the FBR feels it is necessary to do so to monitor activity when such person(s) are under suspicion of tax evasion / fraud. He submitted that the FBR has no legal obligation to provide any timeline or to disclose reasons for posting of the said officers. He concluded by stating that the FBR hold such statutory powers for placing officers on premises, which they have utilized, and as such this petition is liable to be dismissed.

5. We have heard the learned counsels and have gone through the material available on record. It appears that the Petitioners' main grievance vis-à-vis the Impugned Order is that the Impugned Order was passed in violation of settled principles of law.

6. As the Impugned Order relates to powers being utilized by the Respondents under section 40-B STA 1990, it is relevant to reproduce the said section 40-B STA 1990, which reads:-

⁵ The Petitioners are 'registered persons' within the definition of the STA 1990 for the instant purposes

“40B. Posting of [Inland Revenue] Officer. – Subject to such conditions and restrictions, as deemed fit to impose, the [Board], may post Officer of [Inland Revenue] to the premises of registered person or class of such persons to monitor production, sale of taxable goods and the stock position.”

7. A perusal of the aforementioned section 40-B shows that the FBR is entitled to post such officers to the premises as may be authorized, subject to such conditions and restrictions as are deemed fit.

8. Whilst there remains no cavil that the Respondents/FBR do hold powers to post authorized officers on premises for purposes of monitoring (by the Board) under section 40-B STA 1990, the same right is however not unfettered as has been held by the Superior Courts. This can also be seen by a perusal of the section itself, which commences with the words “Subject to such conditions and restrictions”. A reading of the aforesaid shows the statute provides for conditions and restrictions to be in place when officers are posted on premises for the purposes of monitoring. This has been further elaborated in various precedents, such as in the case of *Pakistan Beverages* (supra), which sustained that ‘*monitoring*’ under section 40-B STA 1990 must be for a specific purpose within contemplation under the STA 1990 (e.g. tax evasion or fraud); and that a timeframe must be included (which can of course subsequently be revisited), within which the FBR intends to achieve their purpose.

9. The Impugned Order has failed to provide any of the requisites (mentioned in the preceding Para), including not presenting any timeline for which the monitoring is to continue. When we confronted counsel for the Respondents with this concern, he remained unable to furnish any acceptable response.

10. The mechanism envisaged under the STA 1990 and settled precedents⁶ has been established in order to ensure that the power vested under section 40-B STA 1990 are not misused, as the same are not unrestricted. This facet should not be ignored by the Respondents. Whilst the FBR does hold a statutory right to *monitor* premises, they are equally

⁶ Such as those already discussed *Pak Beverages Case*, which also remains binding upon us

responsible to ensure that such right is utilized in a proper manner, adhering to all checks and balances, else the same would be tantamount to having unfettered powers, which has been prohibited.

11. Since the Impugned Order does not appear to have stated any specific objectives overlaying directions of the Respondents contained therein; and has not included any timeframe or other particulars; nor has it mentioned any conditions and restrictions covering the posting of the said officers on the Petitioner's premises; the said Impugned Order appears to suffer from legal infirmity.

12. We further note that the Respondents have not filed any reply to the Petition, and when confronted with reasons as to what the objectives and timeframe were for posting of officers on the Petitioners' premises? the counsel for the Respondents failed to provide any response. The Respondents' basic (and what appears only) line of defense was that they (i.e. the FBR) had the sole discretion to appoint officers at a premises under section 40-B of the STA 1990, and that it was not mandatory upon them to provide reasons or a timeline for the same. As already deliberated, such reasoning goes against both the letter and spirit of section 40-B of the STA 1990.

13. In light of the aforementioned, we find the Impugned Order under challenge has been issued in a manner contrary to settled law, and the same is hereby declared void.

14. This petition is accordingly **allowed** per the findings aforementioned hereinabove.

JUDGE

JUDGE