

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Saleem Jessar;

Mr. Justice Abdul Hamid Bhurgri.

C.P No.D-3724 of 2026

[M/s H.H. K. Oil Industries (Pvt.) Ltd. V. Government of Sindh and another]

Petitioner : Through Mr. Ahmed Ali Hussain, Advocate.

Respondents 1 & 2 : Through Mr. Faizan Hussain Memon, Additional Advocate General Sindh and Mr. Shehryar Mahar, Additional Advocate General Sindh a/w Ms. Shabana Pervez, Director General, Excise and Taxation.

Date of Hearing : 26.10.2026

Date of Order : 26.10.2026

J U D G M E N T

Muhammad Saleem Jessar, J.- The controversy requiring determination in the present petition is whether the respondents, having already granted a Wholesale Methanol Licence/Permission in favour of the petitioner through communication No.DG-3(1077)/2024-Excise/8809 dated 23.12.2024, can withhold its operationalisation on account of non-payment of the prescribed fee when the requisite challan was not issued by the respondents themselves, and whether the subsequent amendment to the Sindh Abkari Act, 1878, necessitates reconsideration of the matter by the Provincial Government as a fresh application.

2. Learned counsel for the petitioner submits that the competent authority had already granted the Wholesale Methanol Licence/Permission for import and storage of methanol for use in the manufacture of Biodiesel/FAME at the petitioner's industrial facility established in the Bin Qasim Industrial Park, Special Economic Zone, Karachi. The grant was subject to payment of prescribed fees and completion of certain consequential formalities. It is contended that the petitioner complied with the requirements within its control, including furnishing a bank guarantee of Rs.100,000/- through Bank AL Habib Limited on 31.12.2024. However, the respondents failed to issue the requisite challan, thereby preventing completion of the remaining formalities. Learned counsel further submits that the petitioner has made substantial investment in the project through

financing facilities and that continued administrative inaction has prevented commencement of commercial operations, exposing it to recurring financial liabilities and considerable loss.

3. Conversely, learned Additional Advocate General, Sindh, has opposed the petition, contending that grant of a licence is not a matter of right and remains subject to the discretion of the competent authority and compliance with statutory requirements. In support of his submissions, he has relied upon PLD 2024 SC 1168, 2024 SCMR 197 and PLD 2024 Sindh 191. He further submits that the Sindh Abkari (Amendment) Act, 2026, being procedural in nature, applies to pending matters and, therefore, the petitioner's case must now be referred to the Provincial Government for fresh approval. According to him, the petitioner has not deposited the prescribed fees and cannot claim any enforceable right to operationalisation of the licence. He accordingly seeks dismissal of the petition.

4. Learned Additional Advocate General further contended that the petitioner ought to be treated at par with other applicants seeking similar licences. However, upon a specific query by this Court, he acknowledged that no comparable approval had been issued to those applicants, who had merely submitted applications for grant of licences. The petitioner's case, therefore, stands on a materially different footing, as the competent authority had already communicated the grant in its favour, subject to fulfilment of the prescribed conditions. The plea of parity, therefore, does not advance the respondents' case.

5. We have heard learned counsel for the parties, perused the parawise comments filed on behalf of Respondent No.2, examined the material available on record and considered the statutory provisions and authorities relied upon by the learned Additional Advocate General. Respondent No.2 has principally resisted the petition on the grounds that the communication dated 23.12.2024 was conditional and no licence came into existence because the prescribed fee was not deposited; that, following the insertion of Section 30-A through the Sindh Abkari (Amendment) Act, 2026, the power to grant licences for methanol now vests in the Provincial Government; and that the petition involves disputed questions of fact and is barred by laches.

6. The communication dated 23.12.2024 lies at the heart of the controversy. Its contents demonstrate that the Wholesale Methanol Licence and user permission had already been granted in favour of the petitioner by the Director General, Excise & Taxation, who was admittedly the competent authority under the law then in force. The competence of the authority issuing the grant has not been disputed before us. The grant was expressly made subject to payment of prescribed fees and fulfilment of specified conditions. It was, therefore, neither a mere recommendation nor an application awaiting substantive consideration. The respondents have also not demonstrated that the grant was subsequently withdrawn, cancelled, suspended or otherwise rendered ineffective through any lawful order. For proper appreciation of its nature and legal effect, the material communication is reproduced below, with emphasis supplied by underlining the operative words:

DIRECTORATE GENERAL
(EXCISE & TAXATION)
EXCISE, TAXATION AND NARCOTICS CONTROL,
SINDH, KARACHI
D-46, Block-01, Clifton, Karachi

No.DG-3(1077)/2024-Excise/8809 Karachi, dated 23rd December, 2024

To,

The Director (Excise & Taxation) (Excise),
Excise, Taxation & Narcotics Control Department,
Karachi.

SUBJECT: REQUEST FOR THE GRANT OF WHOLESALE METHANOL LICENSE PERMISSION ON PRIORITY, FOR IMPORT AND STORAGE OF METHANOL, FOR USE IN THE MANUFACTURING OF BIODIESEL / FAME (FATTY ACID METHYL ESTER) TO WARD OFF DELAY IN THE OPERATIONALIZATION OF THE BIODIESEL PLANT, FABRICATED / INSTALLED AT SPECIAL ECONOMIC ZONE, BIN QASIM MALIR KARACHI.

*I am directed to refer to your letters # 4(363)/2024/Excise/280 dated 19-07-2024 on the subject noted above and to state that the Director General (Excise & Taxation) Sindh Karachi **has been pleased to grant wholesale Methanol License and user permission of Methanol** for manufacturing Biodiesel / Fame (Fatty Acid Methyl Ester) in favor of M/s. H. K. K Oil Industries (Pvt) Limited Karachi for the Import of Methanol from abroad, its storage in the approved tanks of the Private Bonded Warehouse of Kemari Karachi and subsequent to transport to their factory premises situated at Plot # PP-19-A 03, Bin Qasim Industrial Park Special Economic Zone District Malir Karachi, subject to fulfillment of the following terms and conditions:-*

- a. To pay wholesale Methanol License fee Rs.30,000 prescribed by the Government.
- b. To pay Rs.3 per BG being vend, storage and permit fee on import of Methanol.
- c. To furnish Indemnity Bond of Rs.14 per BG.
- d. To furnish Bank Guarantee of Rs.25,000/- for the safe guard of Government Revenue.
- e. To execute security Bond in the sum of Rs.1,00,000/- for observation of Excise rules and regulations.
- f. They will maintain separate account for purchase, sale and transportation and usage of Methanol.

You are therefore, advised to recover prescribed fee for the wholesale Methanol License and User permission Methanol for the manufacturing of Biodiesel / Fame (Fatty Acid Methyl Ester).
(Emphasis supplied).

Sd/-
(IFTIKHAR ALI RIND)
DEPUTY DIRECTOR (HQ)
for DIRECTOR GENERAL (EXCISE & TAXATION)
EXCISE, TAXATION & NARCOTICS CONTROL,
SINDH, KARACHI

Copy is forwarded to:

1. The Secretary to Govt. of Sindh, Excise, laxation & Narcotics Control Department for kind information please.
2. The Excise & Taxation Officer (Excise) District Malir Karachi for information and further necessary action.
3. M/s. H. H. K Oil Industries (Pvt) Limited situated at Plot # PP-19-A 03, Bin Qasim Industrial Park Special Economic Zone District Malir Karachi with reference to your instant application/undertaking dated 14-12-2024.

Sd/-
DEPUTY DIRECTOR (HQ)
for DIRECTOR GENERAL (EXCISE & TAXATION)
EXCISE, TAXATION & NARCOTICS CONTROL.
SINDH KARACHI

7. The language employed in the above communication is explicit. The expression “has been pleased to grant wholesale Methanol License and user permission of Methanol” is of particular significance. It records an exercise of discretion already made by the competent authority and is not couched in tentative, recommendatory or prospective terms. This conclusion is reinforced by the concluding direction to recover the prescribed fee for the licence and user permission. The communication thus draws a discernible distinction between the grant itself and the subsequent steps necessary to make that grant operational. The conditions attached thereto undoubtedly remain binding upon the petitioner; however, their existence

does not convert the concluded grant into a pending application requiring the licensing discretion to be exercised afresh.

8. It is pertinent to note that, during the hearing, learned counsel for the petitioner filed a statement along with a copy of the bank guarantee issued by Bank AL Habib Limited bearing No.1001/1444/2024 dated 31.12.2024 for Rs.100,000/- in favour of the Director, Excise & Taxation, Government of Sindh, pursuant to the grant dated 23.12.2024. The statement and accompanying bank guarantee have been taken on record. The document lends support to the petitioner's contention that it acted upon the grant and took steps towards fulfillment of the prescribed requirements. Although the guarantee was valid up to 30.12.2025, its subsequent expiry does not, by itself, extinguish the grant already made. The petitioner shall, however, remain obliged to furnish a renewed or fresh guarantee, if required under the applicable law.

9. The principal objection raised by the respondents concerns non-payment of the prescribed licence fee. This objection overlooks the position emerging from the record that the requisite challan was not issued to the petitioner. Where payment of a prescribed amount is required to be made through a challan issued by the concerned department, the authority responsible for issuing such challan must first perform its corresponding administrative obligation. The respondents cannot withhold the instrument through which payment is to be made and thereafter rely upon non-payment as a ground to defeat the grant. No satisfactory explanation has been offered for the prolonged failure to issue the challan. In the absence of any material showing that the petitioner declined or failed to make payment after issuance of the requisite challan, such non-payment cannot constitute a sustainable basis either for treating the grant as ineffective or for requiring the petitioner to undergo the substantive licensing process afresh.

10. The objection concerning disputed questions of fact is equally without substance. The issuance of the communication dated 23.12.2024 by the then competent authority is not denied. The principal controversy concerns its legal effect and the consequences of the subsequent statutory amendment. These are questions of law capable of determination on the admitted documentary record and do not require resolution of any material factual dispute through recording of evidence. As regards laches, the

petitioner has placed reliance upon its continued pursuit of the matter, including its representation dated 28.11.2025. The grievance also concerns the continuing failure of the respondents to complete the administrative formalities necessary to give effect to the grant. In these circumstances, the objection of laches does not furnish a sufficient ground for declining relief.

11. The next and more substantial question concerns the effect of the Sindh Abkari (Amendment) Act, 2026 (Sindh Act No.XXIX of 2026), which came into force at once and whereby, inter alia, Sections 30-A and 30-B have been inserted in the Sindh Abkari Act, 1878. Section 30-A(1), commencing with a non obstante clause, empowers the Provincial Government to grant licences in respect of excisable articles, expressly including methanol. Section 30-A(2) separately provides for renewal by the Secretary, Excise, Taxation & Narcotics Control Department or an officer authorised by him, and deals with cancellation, suspension or revocation in case of violation of the conditions of a licence, subject to the statutory requirement of an opportunity of hearing. Section 30-B provides penal consequences for operating the business of the specified excisable articles without a licence.

12. The non obstante clause in Section 30-A undoubtedly gives overriding effect, within the field occupied by that provision, to the power now conferred upon the Provincial Government to grant licences. It must be given its due meaning. At the same time, the provision has to be construed according to what the Legislature has enacted and not by supplying words which are absent. Neither Section 30-A nor Section 30-B declares that a licence lawfully granted before commencement of the amendment shall stand cancelled, lapse or become void; nor does either provision require every such grant to be placed before the Provincial Government for a fresh exercise of licensing discretion. Thus, while the amended law governs the future exercise of statutory powers and the continuing regulation of licensed activity, no express language has been brought to our notice which retrospectively converts a concluded grant by the then competent authority into an undecided application.

13. The principle governing retrospective operation also answers the submission that the amendment, being procedural, must automatically govern the petitioner's case. In *Commissioner Inland Revenue and others v.*

Mekotex (Pvt.) Limited and others (PLD 2024 SC 1168), the Hon'ble Supreme Court examined the distinction between prospective and retrospective legislation and recognised that a competent Legislature may legislate retrospectively and may affect existing rights where such intention is expressed or follows by necessary implication. In the absence of such legislative intention, a later enactment is not ordinarily construed so as to alter the legal character of a transaction or decision already concluded under the law then prevailing. The decisive inquiry, therefore, is not the label “procedural” attached to the amendment but whether applying it in the manner suggested by the respondents would reopen and extinguish the legal effect of a decision already taken by an admittedly competent authority. Nothing in Sections 30-A or 30-B manifests such an intention.

14. This conclusion does not amount to holding that the petitioner possesses an indefeasible right immune from subsequent regulation. There is a material distinction between preserving the legal effect of a grant already made and exempting the licensee from the law governing the exercise of the licensed activity. The former follows from the absence of any provision retrospectively nullifying the existing grant; the latter does not. Consequently, every statutory and regulatory requirement lawfully applicable to the import, storage, transportation, handling and utilisation of methanol, including the conditions incorporated in the grant itself, remains enforceable against the petitioner.

15. The authorities relied upon by the learned Additional Advocate General have also been considered. PLD 2024 Sindh 191 (M/s Outdoorsman v. Province of Sindh and others) is distinguishable on material facts. In that case, the endorsement under consideration merely stated that permission might be granted in accordance with the applicable policy and did not constitute a definite approval. The communication before us is materially different. It does not say that permission may be granted; rather, it expressly records that the competent authority “has been pleased to grant wholesale Methanol License and user permission of Methanol”, thereafter enumerates the conditions of the grant and concludes by directing recovery of the prescribed fee. The distinction between a tentative endorsement and a concluded grant is, therefore, decisive.

16. It is equally significant that the petitioner does not seek exemption from payment of the prescribed fees or from compliance with the conditions attached to the grant. Its grievance is confined to the respondents' failure to perform the administrative acts necessary to give effect to the decision already made. Requiring the petitioner now to obtain fresh substantive approval from the Provincial Government would not merely apply a new procedure to a pending application; it would reopen the very licensing discretion which stood exercised in December 2024. Such a consequence cannot be read into the amendment in the absence of express language or necessary intendment to that effect.

17. We are conscious that this Court, in exercise of its constitutional jurisdiction, does not ordinarily substitute itself for the statutory licensing authority. The relief contemplated in the present case, however, does not amount to grant of a fresh licence by this Court. It is directed towards securing implementation of the grant already made by the competent authority itself. Equally, the petitioner cannot be permitted to commence regulated operations merely because the respondents have failed to perform their administrative obligations, unless all statutory requirements governing commencement of such operations have been fulfilled. The relief must, therefore, be fashioned so as to prevent continued administrative inaction without dispensing with any mandatory requirement of law.

18. In this context, the petitioner's willingness to deposit the prescribed licence fee deserves consideration. The communication dated 23.12.2024 specifically stipulates a wholesale methanol licence fee of Rs.30,000/-. Since the grievance relates to non-issuance of the challan, an appropriate direction for deposit of this amount with the Nazir of this Court would secure the amount and prevent the respondents from relying upon non-payment attributable to their own inaction. Such deposit, however, shall not be treated as payment of other fees, duties or charges separately prescribed under the grant or applicable law, nor shall it dispense with any other statutory formality.

19. For the foregoing reasons, we are satisfied that the respondents' failure to issue the prescribed challan and complete the consequential formalities cannot be sustained. The petitioner is entitled to have the grant dated 23.12.2024 processed and given effect in accordance with its terms and

subject to all applicable statutory and regulatory requirements. Accordingly, the petition is allowed with the following directions:

- (i) The petitioner shall deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only), representing the prescribed wholesale methanol licence fee specified in the communication dated 23.12.2024, with the Nazir of this Court within three (03) days from the date of this judgment and shall forthwith furnish written intimation thereof, along with proof of deposit, to Respondent No.2.
- (ii) Upon receipt of such intimation, Respondent No.2 shall, within seven (07) days, issue or cause to be issued the requisite challan through the competent departmental authority and take the necessary steps for completion of the consequential formalities relating to the Wholesale Methanol Licence/Permission already granted to the petitioner through communication No.DG-3(1077)/2024-Excise/8809 dated 23.12.2024. Upon issuance of the challan, the Nazir shall remit the deposited amount to the appropriate Government head of account in accordance with the prescribed procedure.
- (iii) In the event that the respondents fail to issue the requisite challan within the stipulated period, the deposit of Rs.30,000/- made with the Nazir shall be treated, for the purposes of compliance with this judgment, as sufficient tender of the prescribed wholesale methanol licence fee by the petitioner. The Nazir shall retain the amount until it can be remitted to the appropriate Government head of account through the prescribed procedure. The respondents shall not rely upon non-payment of that fee, attributable solely to their failure to issue the challan, as a ground for withholding the consequential processing or for requiring fresh substantive approval. This direction shall not be construed as dispensing with any other lawful fee, duty, bond, guarantee or statutory requirement.

- (iv) The petitioner shall comply with all outstanding lawful requirements arising from the conditions specified in the communication dated 23.12.2024, including payment of other applicable statutory dues and furnishing of the requisite indemnity bond, security bond, renewed or fresh bank guarantee or other documents, as may be required in accordance with law. The respondents shall communicate any outstanding requirements to the petitioner in writing within the aforesaid period of seven (07) days, specifying the relevant condition or statutory provision, and shall not withhold completion of the process on the basis of any unspecified administrative objection.
- (v) Upon completion of the applicable requirements, the respondents shall complete the process for issuance/operationalisation of the Wholesale Methanol Licence/Permission pursuant to the grant dated 23.12.2024 within fifteen (15) days thereafter, without requiring fresh substantive approval merely on the basis of the Sindh Abkari (Amendment) Act, 2026.
- (vi) The respondents shall not obstruct the petitioner from undertaking such activities as are lawfully authorised under the Wholesale Methanol Licence/Permission after completion of the requisite statutory and regulatory formalities. This direction shall not prevent the competent authorities from exercising their lawful powers of inspection, supervision and regulation or from taking appropriate action in accordance with law in the event of any violation of the conditions of the licence or applicable statutory requirements.
- (vii) The respondents shall ensure strict compliance with the foregoing directions within the stipulated periods.

20. The petition stands allowed in the above terms, along with all pending applications.

JUDGE
HEAD OF CONST. BENCHES

JUDGE

Ayaz Gul