IN THE HIGH COURT OF SINDH, KARACHI
CP D-8001 of 2015
(and others)

Date	Order with signature of Judge

Present: **Munib Akhtar & Sadiq Hussain Bhatti, JJ.**

For hearing of main case
Dates of hearing: 16.02 and 02.03.2016

Counsel for petitioners:

Mr. M. Faheem Bhayo

Counsel for respondents:

Mr. Jawaid Farooqi and
Mr. Mohsin Imam, a/w
Mr. Wali Muhammad Shaikh,
Additional Commissioner,
Inland Revenue, RTO, Hyderabad

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Munib Akhtar, J.: By this judgment we intend disposing off the petitions listed in the Appendix, which arise in relation to the Sales Tax Act, 1990 ("1990 Act"). We may note that while the majority of the petitions were heard on the dates given above ("main bunch"), certain petitions were subsequently filed but since they involved the same issues as already heard, were treated as reserved along with the main bunch. The lead case was CP D-8001/2015.

2. Learned counsel for the petitioners submitted that the petitioners operated cotton ginning units. It was explained that cotton ginning involved the processing of raw cotton, the resultant products being cotton lint and cottonseed. Cotton lint is used in the textile industry and is not in issue in these proceedings. Cottonseed on the other hand certainly is. Learned counsel submitted that further processing of cottonseed, by oil extracting/expelling units, led to three products: cottonseed oil, cottonseed oil cake (also referred to as oil cake) and oil dirt. For present purposes, the third product (oil dirt) is not relevant. (We may note that cottonseed oil is used as cooking oil, while oil cake is apparently used as cattle or animal feed.) Learned counsel explained that (as here relevant) the cotton ginning units sold the cottonseed to the oil extracting/expelling units. However, some of the petitioners had composite plants, i.e., they used the cottonseed in in-house operations to extract/expel the three products just mentioned. It was further stated that the composite units did not necessarily use in-house the entire cottonseed obtained through

ginning; some (or, in some situations, even all) of it could be sold to third parties.

3. Referring to the Sixth Schedule to the 1990 Act, which sets out the goods the supplies of which are exempt from tax, learned counsel drew attention to entry No. 81. This read at all material times as follows: "cottonseed". Thus, learned counsel submitted, and this was the most important aspect of his case, the supply of cottonseed was at all times exempt from payment of sales tax. Learned counsel submitted that on 05.03.2015, the Federal Government in purported exercise of powers under various provisions of the 1990 Act, issued SRO 188(I)/2015 ("SRO 188"). This is the notification impugned in these petitions. By means of this notification (which is set out in the Annex) a new Chapter XV was added to the Sales Tax Special Procedure Rules, 2007 ("2007 Rules"). It may be noted that SRO 188 also superseded an earlier notification, SRO 213(I)/2013 dated 15.03.2013 ("SRO 213"). That notification, issued by the Federal Government in exercise of powers conferred by s. 3(2)(b) of the 1990 Act, had reduced the sales tax payable on the supply of cottonseed oil (one of the products obtained from processing cottonseed) to 2%.

4. Referring to SRO 188, and Chapter XV thereby inserted in the 2007 Rules, learned counsel submitted that the notification was *ultra vires* the 1990 Act. Rule 58X, learned counsel submitted, provided that sales tax at the rate of Rs. 6 per 40 kg (set out in Rule 58Y(1)) would be collected from cotton ginning units at the time of supply of cottonseed to third parties or (as the case may be) in-house use by a composite unit, in either case for the purpose of oil extracting or expelling. Learned counsel submitted that the supply of cottonseed was wholly exempt from sales tax under entry No. 81 of the Sixth Schedule of the 1990 Act. Thus, there was a basic and fundamental conflict with the parent Act. Learned counsel referred to Rule 58Y(3), which provided that no input tax could be adjusted against the foregoing charge of sales tax (which would be the output tax on the supply of cottonseed insofar as the cotton ginning units were concerned). It was submitted that this was contrary to s. 7 of the 1990 Act, and violated the basic principle of output-input tax adjustment that was fundamental to the VAT mode of taxation. Learned counsel further submitted that SRO 188 provided that it would take effect from 01.07.2014, which was in violation of well established principles relating to the application of fiscal notifications. It was submitted that for all of these reasons, SRO 188 was liable to be struck down. Referring to the para-wise comments, learned counsel submitted that the ostensible reason given for introducing Chapter XV through SRO 188 was an agreement said to have been entered into between the Federal Board of Revenue (FBR) and the

Pakistan Cotton Ginners' Association ("PCGA"). However, no such agreement had been appended to the para-wise comments and only an "undertaking", given by the Chairman of the PCGA had been produced. It was submitted that in any case, even if such an agreement existed, it could not defeat or run contrary to the 1990 Act itself, nor were the petitioners bound by the same. It was prayed that the petitioners be granted the relief they were seeking.

5. Learned counsel for the Department strongly contested the case sought to be put forward by the petitioners. Referring to SRO 213, learned counsel clarified that it applied only (as presently relevant) to composite units and did not at all apply to those petitioners who only operated cotton ginning units. Learned counsel submitted that SRO 188 was *intra vires* the 1990 Act and had been issued in due and proper exercise of powers conferred on the Federal Government. In this regard, reference was made to the various provisions referred to in the opening paragraph of the notification. Reliance was placed in particular on the various subsections of s. 3. Referring to Rule 58Y(5) learned counsel submitted that the purpose of the notification was to exempt the supplies made by the oil extracting/expelling units (whether part of composite operations or standalone third party operators who purchased cottonseed from cotton ginning units). Learned counsel referred also to the Eighth Schedule to the 1990 Act, entry No. 2 of which related to the supply of oil cake, and taxed it at the special rate of 5%. Learned counsel submitted that SRO 188 was a beneficial notification and it was well settled that such a notification could be given retrospective effect. It was submitted that no charge as such had been created under SRO 188. Rather, only the mode and manner of payment of sales tax had been regulated.

6. Mr. Wali Muhammad Shaikh, learned Additional Commissioner, Inland Revenue also made submissions with our permission, and we would like to place on record our appreciation of the valuable assistance that was rendered by him. The learned departmental representative explained the purpose behind SRO 188 and the fiscal impact of the same, using a table to explain the Department's position. The learned representative referred to SRO 213, which, it will be recalled, was issued in 2013 and reduced the rate of sales tax on cottonseed oil to 2%. It was submitted that the Eighth Schedule to the 1990 Act was added by the Finance Act, 2104, and had to be read with clause (aa) of s. 3(2). This clause had also been added in 2014. As noted, entry No. 2 of the Eighth Schedule reduced the rate of sales tax on oil cake to 5%. After this provision took effect, the learned departmental representative explained, there were negotiations and discussions between FBR and PCGA at the latter's request. The result was the issuance of SRO 188, whereby the

rate of sales tax on cottonseed was set at Rs. 6 per 40 kg. Those oil extracting/expelling units (including in-house use by composite units) that used cottonseed on which tax had been paid in the foregoing terms were exempted from payment of tax on the supply of oil cake. The learned departmental representative emphasized that this was a fiscally advantageous situation and referred to the table mentioned above in this regard. Thus, it was submitted, SRO 188 was not merely within the scope of the powers conferred, but was the result of an agreement between the cotton ginners' trade body with FBR and was also fiscally advantageous. In particular reliance was placed on s. 3(6). Learned counsel for the petitioners exercised his right of reply.

7. We have heard learned counsel as above, and examined the record and provisions involved. As noted above, SRO 188 is the notification which is challenged before us. This notification is set out in the Annex to this judgment. We begin by making a general comment on the opening paragraph of the notification, which purports to list the various provisions of the 1990 Act in exercise of which the Federal Government has issued SRO 188. In fact, the provisions listed are simply those listed in the opening paragraph of the 2007 Rules. Many of them have nothing to do with what is provided in Chapter XV inserted by SRO 188. For example, the opening paragraph refers to s. 4, which relates to zero rating. There is nothing in Chapter XV that has any relevance for zero rating. This section has been mentioned in an obviously mechanical manner. Section 7A deals with charging of tax on value addition; there is nothing in Chapter XV as relates to this provision. Similarly, s. 60 relates solely to the import of goods. Again, this has nothing to do with Chapter XV and yet this provision has also been mechanically mentioned in SRO 188. Furthermore, many of the sections referred to in the opening paragraph empower the FBR and not the Federal Government. Examples include s. 6(2), s. 22 (subsections (2A) and (3)) and s. 23. There does not appear to be any provision in the 1990 Act as allows or empowers the Federal Government to exercise any power conferred by any provision of the Act on the FBR (or vice versa). It is a matter of regret that the opening paragraph of SRO 188 has been drafted in this cavalier and careless manner. It certainly does not reflect well on either the FBR or the Federal Government. The obvious irrelevance of most of the provisions listed tends to detract materially from what is sought to be achieved by the notification, even before the substantive content thereof is considered.

8. The position as relevant for present purposes can be stated as follows. The petitioners process raw cotton in their cotton ginning units and, inter alia, obtain cottonseed. This is used by oil expelling/extracting units to, inter alia,

produce cottonseed oil and oil cake. Some of the petitioners have composite units and use some or all of the cottonseed in-house in oil expelling/ extracting operations to produce cottonseed oil and oil cake themselves. Thus, as presently relevant, there are three supplies that can be made the subject of sales tax. Firstly, and most importantly, there is the supply of cottonseed. Secondly, there is the supply of cottonseed oil, and thirdly there is the supply of oil cake. Rule 58X makes clear that Chapter XV intends to tax the supply of cottonseed to be used for oil extracting purposes, and expressly states that it applies to both those cotton ginning units as supply cottonseed to others as well as those that have composite operations. Rule 58Y(1) amplifies on this by providing both the rate of tax (Rs. 6 per 40 kg) and when the sales tax is payable. In the case of supply to third party oil extracting/expelling units, this is at the time of the said supply. In the case of in-house use by composite units, it is at the time of such use. Now, it is not denied by the respondents that the supply of cottonseed is, and has been at all material times, wholly exempt in terms of entry No. 81 of the Sixth Schedule to the 1990 Act. This Schedule is to be read with s. 13(1), which states as follows:

> "**13. Exemption.**--(1) Notwithstanding the provisions of section 3, supply of goods or import of goods specified in the Sixth Schedule shall, subject to such conditions as may be specified by the Federal Government, be exempt from tax under this Act."

It is pertinent to note that certain provisos were added to subsection (1) in 1999 but omitted in 2000. These were as follows:

> "Provided that the Federal Government may, by notification in the official Gazette, withdraw any exemption granted under the Sixth Schedule to the extent specified in the notification:
>
> Provided further that the aforesaid power to withdraw an exemption shall not be construed to include the power to revive or to restore the exemption so withdrawn."

As the provisos make clear, but is in any case plain on a bare reading of s. 13(1), the words "subject to such conditions as may be specified by the Federal Government" cannot be so construed and applied as to withdraw or nullify the exemption itself as contained in any entry of the Sixth Schedule. It is to be noted that the Sixth Schedule can only be amended by the legislature. Some of the entries grant exemption subject to the limitations as therein specified. Other entries however, grant the exemption without any limitation being attached. This is the position with regard to cottonseed: entry No. 81 imposes no limitation on the exemption. In our view, the proper interpretation and application of s. 13(1), as read with the Sixth Schedule, is that the entries thereof determine the scope and extent of the exemption. This is set by the legislature itself and can be neither expanded nor narrowed by the Federal

Government. The grant of the exemption is entirely the domain of the legislature. All that the Federal Government can do in terms of s. 13(1) is to regulate the manner in which the exemption granted is to be availed. It is only to this extent and for this purpose that conditions can be imposed by it. Thus, the power of the Federal Government in terms of s. 13(1) is strictly limited. In particular, it cannot trespass on the area that the legislature has reserved for itself alone. In the present context, it is also pertinent to note that subsection (1) is not even mentioned in the opening paragraph of SRO 188: it only refers to s. 13(2)(a). What Rule 58X and Rule 58Y(1) however purport to do, by imposing sales tax on the supply of cottonseed, is to, in effect, nullify and withdraw the exemption granted by entry No. 81. This, the Federal Government is patently not empowered to do. The grant of an exemption by a statutory provision in the parent Act, which can only be altered by the legislature itself, cannot be denied or defeated in the exercise of any subordinate rule making power. In our view therefore, the purported levy of sales tax on cottonseed is clearly contrary to entry No. 81 and thus *ultra vires* the provisions of the 1990 Act.

9. As is obvious, the foregoing conclusion sounds, as it were, the death knell for Chapter XV since SRO 188 is premised on the supply of cottonseed being subject to sales tax. If that levy is unlawful, as it has to be for the reasons just stated, the entire structure of the notification, and certainly the object sought to be achieved by it, fails. It is also to be noted that the rate of the sales tax is immaterial: any sales tax imposed on the supply of cottonseed would fall foul of entry No. 81 of the Sixth Schedule and fail immediately. Furthermore, this conclusion applies equally to the supply of cottonseed to third party oil extractors/expellers as well as the in-house use of the cottonseed by composite units. The reason is that, in law, there would have to be a "supply" by the composite unit to itself of the cottonseed for the mechanism envisaged by Chapter XV to work. Here, there may be an additional complication. Section 2(33) defines "supply" as meaning, inter alia, "a sale or other transfer of the right to dispose of goods as owner". This appears to imply that for purposes of the 1990 Act, there must be a sale or disposal to another person for there to be a "supply". In other words, self-use or consumption would appear to fall outside the ambit of "supply". However, we express no definite finding on this (otherwise important) point, since it is not necessary for us to do so for present purposes. It suffices to note that even in the case of composite units, the self-use must necessarily constitute a "supply" of the cottonseed within the meaning of the 1990 Act. But any such "supply" would also necessarily be exempt by reason of entry No. 81 of the Sixth Schedule.

10. We may note that we expressly invited submissions by learned counsel for the Department and the learned departmental representative on the foregoing points, and specifically asked them to point out any provision in the 1990 Act as would allow or enable the Federal Government to, as it were, override an exemption granted in the parent Act in the exercise of rule making powers. No such provision was shown to us. Reliance was placed on s. 3(6), but that provision cannot take precedence over s. 13(1), which opens with a non-obstante clause that overrides s. 3 in its entirety. Therefore in our view, Rule 58X and 58Y(1) are *ultra vires* entry No. 81 of the Sixth Schedule to the 1990 Act.

11. The other objection taken by learned counsel for the petitioners is that SRO 188 has been given impermissible retrospective effect: the notification was issued on 05.03.2015 but given effect from 01.07.2014. This is for the reason that it imposes a fiscal burden on the supply of cottonseed (by purporting to negate the exemption granted by the parent Act) and it is well settled that no notification that does so can have retrospective effect. In our view, this objection is well founded. Learned counsel for the Department and the learned departmental representative sought to argue that the notification was beneficial and hence could have retrospective effect. However, it is clear that any supposed benefit of the notification is to the account of the oil extracting/expelling units and not the cotton ginning units. What Rule 58Y(5) exempts is the supply of oil cake produced from cottonseed to which Chapter XV applies. SRO 188 is certainly not beneficial to cotton ginning units since it denies to them the benefit of the exemption granted by entry No. 81. While composite units may have the benefit of Rule 58Y(5), many of the petitioners before us do not operate such units. They are admittedly only involved in cotton ginning. Therefore, insofar as those petitioners are concerned (who would appear to constitute a significant portion of the total number if not the majority), the notification could not possibly be given retrospective effect, on the basis of well established principles.

12. Another objection taken by learned counsel for the petitioners is that Rule 58Y(3) denies the benefit of input tax adjustment in respect of cottonseed supplied in terms of Chapter XV. This, it is contended, is *ultra vires* the 1990 Act as it is contrary to the basic mechanism of output minus input tax adjustment that is fundamental to the VAT mode. This objection also appears to be well taken. The importance and central role of the output minus input tax mechanism in the VAT mode has been highlighted in various judgments, including those of this Court. Reference can be made to *Pakistan Beverage Ltd. v. Large Taxpayer Unit Karachi* 2010 PTD 2673 (DB), applied in *Pakistan International Airlines Corporation v. Pakistan and others* 2015

PTD 245 (SB). In general (and subject to what is stated further and other qualifications not presently material), a person is entitled, in relation to any given tax period, to adjust input tax paid by him against any output tax due from him. Input tax is defined in rather broad terms in s. 2(14). In the present case, the tax levied on the supply of cottonseed in terms of Rule 58Y(1) (assuming for the moment that such a levy would be lawful) would constitute the output tax for the cotton ginning units. They would therefore ordinarily be entitled to adjust input tax against this output tax and be liable only for the difference. It is true that s. 8 provides various categories of goods and cases where input tax cannot be claimed. Clause (b) of subsection (1) specifically empowers the Federal Government to notify any goods or services in respect of which input tax cannot be claimed. It is also true that the opening paragraph of SRO 188 refers to this provision (i.e., s. 8(1)(b)). However, the manner in which Rule 58Y(3) is drafted is contrary to this provision. The reason is that Rule 58Y(3) is drafted with reference to the output tax, whereas s. 8 is limited only to the input tax. This is not merely a matter of semantics. What Rule 58Y(3) purports to do is to identify the output tax in respect of which input tax cannot at all be claimed. But what s. 8(1)(b) empowers the Federal Government to do is to identify the goods or services the supply of which, if taxed, would not count towards input tax. In our view, since s. 8 derogates from the basic principle of VAT mode taxation—output minus input tax adjustment—it must be applied precisely and with specificity. Equally, the power conferred on the Federal Government in terms of s. 8(1)(b) must be exercised precisely and specifically. Rule 58Y(3) does no such thing. It simply identifies a supply that results in output tax (i.e., the supply of cottonseed) and purports to prohibit or deny adjustment of any input tax in relation thereto. In our view this is contrary to the terms of s. 8(1)(b) and cannot therefore be sustained. (We may note that s. 8 in general, and subsection (1), clause (b) in particular require detailed analysis and consideration on their own, which is not necessary here. We expressly leave such analysis and consideration open for an appropriate case.)

13. We turn to the main plank on which the respondents rest their case, namely the agreement between FBR and PCGA. The only document produced in respect thereof is an undertaking dated 27.02.2015 given by the Chairman, PCGA. The undertaking was in the following terms:

> "Pakistan Cotton Ginners' Association (PCGA) agrees on its own behalf and on behalf of its all respective members whether composite or others to undertake to become withholding/collecting agents in respect of sales tax to be levied by the Federal Government on supply or own use of cotton seed at the rate of Rs. 6 per maund with effect from 01.07.2014 in lieu of 2% sales tax presently levied on cotton seed

oil as per provisions of SRO 213(1)/2013 dated 15.08.2013 and 5% of sales tax on cotton seed oil cake."

In our view, the so-called "undertaking" hardly amounts to an agreement that would be binding, even if it were lawful. It is of course patently unlawful since it purports to create a situation that is contrary to the 1990 Act and the law, for the reasons given above. However, it is also unknown as to the basis on which the Chairman of PCGA could bind the Association and each member thereof in terms of the undertaking. In particular the reference therein to the cotton ginning units becoming "withholding/collecting agents" in respect of sales tax payable on the supply of cottonseed is patently contrary to law. This point has been emphasized in the para-wise comments, and we want to make clear that this is entirely erroneous. The legal liability of a person in relation to the supply of goods is clearly spelt out in s. 3(3) (subject to subsection (3A)): the liability to pay sales tax is, in the case of a person making a supply on that person, and in the case of imported goods on the importer. In case there is any default or failure in the payment of tax, it is, in law, the responsibility of the person on whom lies the legal liability. The person so liable is not acting as a "withholding/ collecting agent" and it is erroneous to describe or consider him as such. Furthermore, the concept of withholding (to the extent legally permissible or relevant) arises only in relation to input tax, and not output tax. It can only arise in relation to a person who makes payment for a supply (i.e., to whom a supply is made), and not in respect of a person who receives payment for making a supply. This is obvious, e.g., from a perusal of the rules made in this regard, the Sales Tax Special Procedure (Withholding) Rules, 2007. Thus, when the cotton ginning units make a supply of cottonseed as contemplated by Chapter XV, they are not acting as "withholding/collecting agents"; rather, they have primary legal liability to pay the sales tax in respect of such supply (assuming that there is such a liability since, of course, in the present case the supply is wholly exempt). For the reasons given above, this applies equally to in-house use of cottonseed by composite units; such use has to be a "supply" within the meaning of the 1990 Act. Thus, the so-called undertaking or agreement and the reliance placed thereon in the para-wise comments is, with respect, misconceived and cannot lend any support to the respondents' case.

14. In view of the foregoing discussion, it is clear that Rule 58X and sub-rules (1) and (3) of Rule 58Y are *ultra vires* the 1990 Act. The retrospective effect sought to be given to SRO 188 is also contrary to law. Since the foregoing provisions constitute, as it were, the heart of Chapter XV and provide the indispensable motor that drives the entire mechanism, the whole Chapter collapses as a result. In such circumstances, in our view it would not

be inappropriate to make a suitable declaration with regard to SRO 188 in its entirety.

15. Accordingly, these petitions are disposed of in the following terms:

a. Chapter XV of the 2007 Rules, as inserted by SRO 188(I)/2015 dated 05.03.2015, is declared to be *ultra vires* the 1990 Act and hence without any legal consequence or effect whatsoever;

b. it is declared that any sales tax collected or paid on the supply of cottonseed is unlawfully demanded/claimed, as being contrary to entry No. 81 of the Sixth Schedule to the 1990 Act;

c. the respondents/Department are restrained from making any claim or demand for payment of sales tax in terms of Chapter XV or from enforcement of any of the provisions of the said Chapter and any proceeding pending or initiated in this regard or any order made are quashed and set aside;

d. the petitioners shall be entitled to the refund of any sales tax paid in terms of or under Chapter XV, any such refund claim can be made within 90 days of this judgment and shall be processed by applying, mutatis mutandis, the relevant refund rules to the facts and circumstances of each case;

e. for the removal of any doubts, it is clarified that nothing in this judgment shall prevent the respondents/Department from taking any action (and in particular demanding or claiming any sales tax payable on any supply) which could have been taken had SRO 188(I)/2015 dated 05.03.2015 not been issued, but any such action shall be taken strictly in accordance with law (and in particular, after issuing a proper show cause notice and giving an appropriate opportunity of hearing to the concerned person).

16. The petitions are allowed in the above terms. There will be no order as to costs.

SD/- JUDGE
SD/- JUDGE

Certified to be true copy

Assist-ant Registrar(Writ)

ANNEX

Government of Pakistan
Ministry of Finance, Revenue, Economic Affairs and Statistics
(Revenue Division)
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Islamabad, the 5th March 2015.

NOTIFICATION
(Sales Tax)

S.R.O. 188 (I)/2015.- In exercise of the powers conferred by section 71 of the Sales Tax Act, 1990, read with clauses (9) and (46) of section 2, sections 3 and 4, sub-section (2) of section 6, section 7, section 7A, clause (b) of sub-section (1) of section 8, clause (a) of sub-section (2) of section 13, sub-sections (2A) and (3) of section 22, sections 23 and 60 thereof, and in supersession of its Notification No. S.R.O. 213(I)/2013 dated the 15th March, 2013, the Federal Government is pleased to direct that the following further amendments shall be made in the Sales Tax Special Procedure Rules, 2007, namely:-

In the aforesaid Rules,—

(a) rule "59", and rule "60", shall be re-numbered as rule 58U and rule 58V, respectively; and

(b) after rule 58V, re-numbered as aforesaid, the following new Chapter XV and rules thereunder shall be added, namely:-

"CHAPTER XV
SPECIAL PROCEDURE FOR SALES TAX ON COTTONSEED OIL EXPELLED BY OIL EXPELLING MILLS AND COMPOSITE UNITS OF GINNING AND EXPELLING

58W. Application. – The provisions of this Chapter shall apply to the persons engaged in supply of cottonseed as well as composite units of cotton ginning and expelling of oil from cottonseed.

58X. Scope and levy of tax.- The sales tax on supply of cottonseed shall be levied and collected on the basis of quantity of

cottonseed supplied, or consumed in-house for expelling of oil by composite cotton ginning units.

58Y. Mode, manner and rate applicable for payment of sales tax.- (1) The amount of sales tax chargeable under rule 58X shall be levied and collected at the rate of Rs. 6 per 40 kg at the time of supply of cottonseed by cotton ginners for in-house consumption, or to any other registered or unregistered person for the purpose of oil extraction or expelling.

(2) All cotton ginners, if not already registered or required to be registered, shall obtain sales tax registration for the purpose of these rules.

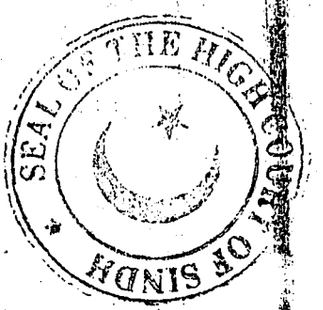
(3) The amount of sales tax so charged and collected by the cotton ginners shall be declared in the monthly returns and shall be deposited as such without any input tax adjustment.

(4) The suppliers of cottonseed shall mention sales tax charged under this Chapter separately on the sales tax invoice to be issued by them.

(5) The oil expelling units using the cottonseed on which sales tax has been charged and collected in the aforesaid manner shall be exempted from payment of sales tax on the supplies of oil cake produced from such cottonseed.

(6) The ginner shall submit a certificate to the Commissioner having jurisdiction by the 15th day of the month following the tax period for the quantity of cottonseed supplied to the growers for sowing purpose.

58Z. Monthly statement.- Each ginning unit including a composite ginning unit, shall submit to the Commissioner of Inland Revenue having jurisdiction, monthly statement of production and supply of ginned cotton, cottonseed and cottonseed oil in the format



set out in Annex-I, by the 15th day of the month following the tax period.

58ZA. Notice to be given by the ginning unit.-- A ginning unit, or as the case may be, a composite ginning unit shall, at the time of commencement of ginning activity and at the time of closure thereof, inform the Commissioner of Inland Revenue having jurisdiction within three days of such commencement or closure, as the case may be.

58ZB. Final statement to be furnished by the ginning unit.— (1) Each ginning unit including a composite ginning unit shall, within fifteen days of the cessation of the ginning activity, furnish to the Commissioner of Inland Revenue having jurisdiction, a statement regarding production and supply of ginned cotton, cottonseed, cottonseed oil, oil cake and oil dirt, in the format set out in Annex-J.

(2) Where the cotton ginner or the composite cotton ginning unit fails to furnish any statement or certificate as required under this Chapter, he shall be liable for penal action as provided under serial No. 17 of the Table in section 33 of the Sales Tax Act, 1990."; and

(c) after Annex-H, the following new annexures shall be added, namely:-

"ANNEX – I
[See rule 58Z]

MONTHLY STATEMENT FOR GINNERS

Name and address _____

Registration No. _____

Tax Period (Month) _____

Purchases (Phutti in Maunds) _____

Production: Cottonseed: _____ **Maunds / kg; Cotton Lint:** _____ **bales**

S. No.	Name & Address of Buyer of Cottonseed or In-House Consumption	Sales Tax Invoice No. and date	Quantity of Cottonseed (Kgs)	Value (Rs)	Sales Tax Payable @ Rs.6/- per 40 Kg	Amount of Sales Tax Paid
(1)	(2)	(3)	(4)	(5)	(6)	(7)

ANNEX-J

[See sub-rule (1) of rule 58ZB]

FINAL STATEMENT FOR GINNERS

Name and address _____

Registration No. _____

Season / Year: _____

Phutti purchased (Maunds)	
Cotton Lint produced (Bales)	
Cottonseed produced (Kgs)	
Cottonseed supplied (Kgs)	
Sales Tax Payable @ Rs.6/- per 40 kg	
Amount of Sales Tax Paid	
Cottonseed Oil produced (Kgs)	
Oil Cake produced(Kgs)	
Oil Dirt produced (Kgs)	

".

2. This notification shall be deemed to have taken effect from the 1st July, 2014, except sub-rule (5) of rule 58Y which shall come into force with immediate effect.

[C.No. 1/42-STB/2012]

SEAL OF THE HIGH COURT OF SINDH

(Nisar Muhammad)
Additional Secretary

IN THE HIGH COURT OF SINDH, KARACHI

C.P. No. D-8001/2015

(and connected petitions)

APPENDIX: LIST OF CASES

1	CP D- 8001/2015	Insaf Cotton G & P F & Oil Mills v. The FOP & ors.
2	CP D- 2175/2015	Super Star Cotton v. Fed. of Pakistan and Ors
3	CP D- 2176/2015	Insaf Cotton v. Fed. of Pakistan and Ors
4	CP D- 2177/2015	Soneri Cotton v. Fed. of Pakistan and Ors
5	CP D- 2300/2015	Mahaveer Cotton v. Fed. of Pakistan and Ors
6	CP D- 2301/2015	Noor Shah Cotton v. Fed. of Pakistan and Ors
7	CP D- 2302/2015	S.S.D Cotton v. Fed. of Pakistan and Ors
8	CP D- 2303/2015	Sachal Cotton Ginners v. Fed. of Pakistan and Ors
9	CP D- 2304/2015	Lal Cotton Industries v. Fed. of Pakistan and Ors
10	CP D- 2305/2015	Sameer Cotton Ginners v. Fed. of Pakistan and Ors
11	CP D- 2306/2015	Data Pir Cotton Industries v. Fed. of Pakistan and Ors
12	CP D- 2307/2015	Shahenshah Cotton Ginners v. Fed. of Pakistan and Ors
13	CP D- 2308/2015	Murshid Lal Cotton v. Fed. of Pakistan and Ors
14	CP D- 2309/2015	Sacho Satram Cotton v. Fed. of Pakistan and Ors
15	CP D- 1097/2016	Sun Shine Ginners v. Fed. of Pakistan and Ors
16	CP D- 2641/2015	Shahani Cotton Ginners v. Fed. of Pakistan and Ors
17	CP D- 2642/2015	Kalka Cotton Industries v. Fed. of Pakistan and Ors
18	CP D- 2643/2015	Al- Raheem Cotton Ginners v. Fed. of Pakistan and Ors
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24	CP D- 2649/2015	Alman Cotton G.P v. Fed. of Pakistan and Ors
25	CP D- 2650/2015	Lal Shahbaz C.G.P v. Fed. of Pakistan and Ors
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27	CP D- 2652/2015	Al-Abbas Cotton v. Fed. of Pakistan and Ors
28	CP D- 2653/2015	Kohisar C.G.P v. Fed. of Pakistan and Ors
29	CP D- 2654/2015	Qalandari Industries C.G v. Fed. of Pakistan and Ors
30	CP D- 2655/2015	National Cotton Ginners v. Fed. of Pakistan and Ors

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32	CP D- 2657/2015	Murshid Lal Cotton Ginners v. Fed. of Pakistan and Ors
33	CP D- 2658/2015	New Shan Cotton Ginners v. Fed. of Pakistan and Ors
34	CP D- 2659/2015	Sada Bahar Kohistan C.G.P v. Fed. of Pakistan and Ors
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44	CP D- 2709/2015	Sattari Cotton Ginning v. Fed. of Pakistan and Ors
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85	CP D- 264/2016	New Asad Cotton Factory v. Fed. of Pakistan and Ors
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