

ORDER SHEET

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**IN THE LAHORE HIGH COURT,
MULTAN BENCH MULTAN
JUDICIAL DEPARTMENT**

Case No. S.T.R No.37/2022

Commissioner Inland Revenue Vs M/s Fatima Fertilizer Co. (Pvt.) Ltd.

S.No.of order/ Proceeding	Date of order/ Proceeding	Order with signature of judge, and that of parties or counsel, where necessary.
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20.09.2023 Mr. Tariq Manzoor Sial, Advocate for the applicant.
M/s Shahmeer N. Arshad, Shoaib Ahmad and
Muhammad Imran Ghazi, Advocates for the respondent.

This is a reference application under Section 47 of the Sales Tax Act, 1990 and brings a challenge to the judgment dated 31.01.2022 passed by the Appellate Tribunal Inland Revenue, Multan. Learned counsel for the applicant relied upon the following question of law to arise out of the impugned order of the Appellate Tribunal:

"Whether on the facts and in the circumstances of the case the Ld. ATIR was justified to maintain Commissioner-IR Appeal's order without appreciating that by virtue of the provisions of SRO 648(I)/2013 dated 09-07-2013 exclusion / exemption from chargeability of Further Tax u/s 3(1A) at the rate of 1% was applicable for tax periods July, 2015 to June, 2016?"

2. We have heard the parties and do not find any reasonable ground to upset the findings of the Appellate Tribunal which is based on a proper consideration of the notifications issued by FBR. It is undisputed that the supply of fertilizer was declared not liable to further tax at the rate of 1% in terms of section 3(1A) of the Act, 1990 by virtue of notification SRO 648(I)/2013. Later on,

ATTESTED

EXAMINER
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LAHORE HIGH COURT
MULTAN BENCH MULTAN

through SRO 487(I)/2016 merely the rate of further tax was enhanced to 2%. Upon this, a show cause notice was served on the respondent on the differential rate as specified in the subsequent notification. This was a fallacy on the part of the department and since merely the rate was enhanced, the primary declaration in SRO 648(I)/2013 would remain in the field and by which fertilizer was declared not liable to further tax. The subsequent notification has been misconstrued by the department. The appeal filed before CIR (A) was allowed and the findings was affirmed by the Appellate Tribunal and we do not find any reasonable cause to interfere in the two findings of the forums below. The question of law raised and argued by the applicant is decided in favour of the respondent and against the applicant. This reference application is dismissed.

A copy of this order shall be sent to the Tribunal under the Seal of the Court.

Application No. 1240
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 Name of Counsel 100
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29/10/23

[Signature]
 (MUZAMIL AKHTAR SHABIR)
 JUDGE

[Signature]
 (SHAHID KARIM)
 JUDGE

★
 Rifaqat Ali

29/10/23
 EXAMINER COPY SUPPLY SECTION
 AUTHORIZED UNDER ARTICLE 87
 OF MANON-I-SHAHADAT ORDER 1934
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29/10/23
 EXAMINER COPY SECTION
 LAHORE HIGH COURT
 MULTAN BENCH MULTAN

Form No.HC.JD/C-121
ORDER SHEET
IN THE LAHORE HIGH COURT,
MULTAN BENCH, MULTAN
JUDICIAL DEPARTMENT

STR No. 37 of 2022

The Commissioner Inland
 Revenue, Legal Zone

Versus

M/s Fatima Fertilizers Co.

Sr. No. of Order/ Proceeding	Date of Order/ Proceeding	Order with Signature of Judge, and that of parties or counsel, where necessary
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1 06.09.2022 Mr. Tariq Manzoor Sial, Advocate for the Appellant.

Through the instant Reference Application under Section 47 of the Sales Tax Act, 1990, following question of law, arising out of impugned order dated 09.12.2021 passed by the learned Appellate Tribunal Inland Revenue, Multan Bench, Multan has been proposed for our opinion:-

“Whether on the facts and in the circumstances of the case Ld. ATIR was justified to maintain Commissioner-IR Appeal’s order without appreciating that by virtue of the provisions of SRO 648(I)/2013 dated 09-07-2013 exclusion / exemption from chargeability of Further Tax u/s 3(IA) at the rate 1% was applicable for tax period July, 2015 to June, 2016?”

2. Let service be effected on the respondent through usual mode, registered post acknowledgment due and courier service at the expense of the appellant.
3. Re-list on 17.11.2022.

(SULTAN TANVIR AHMAD)
 JUDGE

(SHAMS MEHMOOD MIRZA)
 JUDGE

Application No. 122/10
 Date of presentation of Application 06/09/23
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 EXAMINER COPY SUPPLY SECTION
 AUTHORIZED TO REPLY ARTICLE 87 OF QANUN-I-SHARADAT ORDER 1984
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 LAHORE HIGH COURT
 MULTAN BENCH MULTAN