

Form No.HCJD/C-121
ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

WRIT PETITION NO.2044/2020

M/S UNITED FOAM INDUSTRIES (PVT.) LIMITED, ETC
Versus

GOVERNMENT OF PAKISTAN, ETC.

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)	29.07.2020	Mr. Mohammad Ikram Ch. Advocate for the petitioner.
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The petitioner through instant petition has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, and has sought the following prayer:-

“It is, therefore, respectfully prayed that the writ petition may please be accepted in favour of the petitioners and against the respondents to the following effect:

- a. *The act of Respondent No. 1 not to recover income tax, sales tax, withholding tax and customs duty under relevant laws on the goods/foam and others, imported and manufactured under the garb of exemption allowed in SRO NO 1212 and 1213 dated 05-10-2018 exclusively for FATA/PATA/KPK but sold in other provinces be declared as against the provision of Constitution of Islamic Republic of Pakistan is malafide, discriminatory, Arbitrary, illegal, failure to perform their duty / role as per law causing loss of millions of rupees to the national exchequer by promoting virtual illegal trade in the garb of import at Karachi and further damaging the petitioners’ business making it uncompetitive and unsustainable.*
- b. *That the petitioners’ case falls within the for-corners of law under Article 4, 9, 18 and 25 of the Constitution of Islamic Republic of Pakistan, 1973, Sales Tax Act, Customs Laws and Discrimination was being caused to the bonafide business community of petitioners and was misuse to exemptions and SRO NO 1212 and 1213 thus being used to the determinant and discriminatory of petitioners legal fundamental rights violating laws and Constitution of Islamic Republic of Pakistan 1973.*
- c. *That the respondents be directed to treat petitioner / Foam industry at par with EDIBLE OIL / GHEE and STEEL whereby EDIBLE OIL / GHEE and STEEL industries*

were excluded from exemptions by converting them from Sales Tax to FED (Sr. No. 2 and 58 of the First Schedule to the Federal Excise Act, 2005) throughout the country including FATA/PATA now KPK hence same treatment be adapted with the Foam industry as well converting it from Sales Tax to FED Regime on VAT mode not only to recover millions in taxes but also to create a fairplay endowment between all players of foam industry and to discourage the practice of tax evasion / smuggling / sale of Foam and allied products.

2. After hearing arguments of the learned counsel for petitioner at some length, the Court inquired about filing of any representation before the FBR as section 7 of the FBR Act, 2007, provides for redressal of grievance of the taxpayer on the representation regarding issues relating to tax laws. Learned counsel in reply candidly submitted that the association namely All Pakistan Foam Manufacturers Association (APFMA) has filed representation dated 17.06.2020, to the Anomaly Committee of the FBR on the subject of “Misuse of significant tax anomaly faced by Pakistan based Foam manufacturers in comparison with FATA / PATA (Tribal Areas) based foam manufacturers”. Learned counsel submitted that, despite several meetings, decision on the application is pending. Learned counsel expressed his satisfaction, if the directions is issued to the respondent/FBR for disposal of petitioner’s representation dated 17.06.2020, within three weeks.

3. In view of the above, respondents are directed to decide the representation dated 17.06.2020, filed by the petitioner, within a period of three weeks from the date of receipt of this order, after giving due consideration to the grievances voiced through the said representation, by providing adequate opportunity of hearing to the members of Association/petitioners.

4. Instant petition stands disposed of in the above terms.

(LUBNA SALEEM PERVEZ)
JUDGE