IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Miangul Hassan Aurangzeb

Civil Appeal No. 316 of 2022
[On appeal from the judgment dated 11.03.2020 of the Islamabad High Court, Islamabad passed in S.T.R.No. 14/08)

Commissioner Inland Revenue, Corporate Zone, RTO Peshawar. ... *Appellant*

Versus

M/s Flying Kraft Paper Mills (Pvt.) Limited, Charsadda and another. ... *Respondents*

AND

Civil Petition No. 483-K of 2021
[Against the judgment dated 04.02.2021 of the High Court of Sindh, Karachi passed in Special Sales Tax Appeal No. 148/2005]

Commissioner Inland Revenue, Legal LTO, Karachi. ... *Petitioner*

Versus

Matiari Sugar Mills, Karachi. ... *Respondent*

In CA.316/22:
For the Appellant: Dr. Farhat Zafar, ASC.
Dr. Ishtiaq Ahmed Khan, Director-General, Law, FBR.
Sharif Ullah, AD, Legal.

For the Respondent: Mr. Isaac Ali Qazi, ASC.

In CP.483-K/21:
For the Petitioner: Mr. Irfan Mir Halepota, ASC.
Mrs. Abida Parveen Channar, AOR.
Mr. Sharjeel Ahmed, Addl. Commissioner, FBR.
[Via video-link from Karachi]

For the Respondent: Not represented.

Date of Hearing: 26.02.2025.

ORDER

Muhammad Shafi Siddiqui, J. Via show cause notice dated 18.02.2003 issued to the respondent-company on the alleged inadmissible input tax adjustment paid towards electricity and gas bills supplied to the residential colony of the factory within factory premises for the month of January and February, 2000; the adjustment was questioned. The show cause notice was contested. It was originally decided via order-in-original against the respondent. The respondent filed an appeal before the Tribunal, which decided on 08.07.2008 that the adjustment of input tax on electricity and gas consumption supplied by a common commercial meter to factory and labour colony of the factory, by the appellant is justified and within the frame of section 7(1) of the Sales Tax Act, 1990 ('**the Act**'). The appeal was allowed and the impugned order-in-original was set aside.

2. Aggrieved of it, the appellant filed Sales Tax Reference No. 14 of 2008, which met the same fate. This civil appeal is against these concurrent findings of Tribunal and reference jurisdiction of High Court.

3. The primary argument of the appellant is that under section 7(1) of the Act, input tax adjustment is only admissible from the output tax against taxable supplies. The electricity and gas used by the labour residential colony cannot be termed as taxable supplies which could attract the lawful adjustment of input tax against sales tax paid on these utilities.

4. We have heard the learned counsel and perused the available material on record. The fact that the residential colony of the labour was situated within the boundary wall of the factory was not disputed

throughout. The labour residential colony is within the "registered manufacturing premises" of the respondent-company as identified by the department and the registered premises do not distinguish or separate the two and the electricity and gas were being consumed by the labour through commercial meter installed in the name of the company, as a common meter.

5. The only grievance agitated by the appellant-department is that the input tax paid has been unlawfully adjusted against output tax as the sales tax collected on the supply of these utilities to the residences of the workers in the labour colony have no nexus with the taxable activity of the respondent-company and hence would not come within the frame of section 7(1) of the Act.

6. The two questions raised in the reference jurisdiction before the Islamabad High Court were (i) whether the learned Tribunal has read too much into the definition of the term Factory and ignored the term Residence, and (ii) whether the respondent company misused the facility of adjustment of input tax on electricity and gas for the factory and illegally supplied the utilities to residential colonies.

Input tax is a tax paid by the registered person on the purchases while output tax is calculated on the sale of goods so it requires a legitimate nexus between the two. The provisions of section 7(1) of the Act provides the facility to the registered person as a legal right to deduct tax paid on purchases from the tax calculated on the sale of its taxable supplies, so that the said registered person may not be vexed twice and the taxpayer is saved from unnecessary hardship.

The residence of labour and work place is shown as “one unit” and is also registered as “one manufacturing unit”. The residence is provided to the workers to ensure smooth and unhindered work by labour engaged in the process of manufacturing of the taxable goods. Consequently, the consumption of electricity and gas by the labour/workers in their accommodation is directly connected with the taxable activity of the respondent-company and the entire unit is considered as a manufacturing unit, and hence considered to be a direct manufacturing expenditure in relation to the cost of goods.

7. The residential colony of the factory for the convenience of the workers is provided within the factory premises for unrestrained factory work and the entire premises is registered as one manufacturing premises. Had it been objected, the entire premises would not have been registered as one manufacturing unit. The conclusion drawn by the Tribunal as well as by the High Court does not call for any interference as it is based on admission of facts regarding the residential colony existing within the registered factory premises.

8. The provision of section 7 of the Act is to be interpreted liberally. In terms of the case of *Sheikhoo Sugar Mills Ltd. and others v. Govt. of Pakistan and others* (**PTCL 2001 CL 331**), it provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax.

9. The questions raised before the reference jurisdiction of the High Court were correctly answered based on admission of facts, in particular the existing of residential colony within the registered factory limits and on this count interference of this Court is not required.

10. For the reasons discussed above, this appeal is dismissed. In view of conclusion drawn in this appeal the connected CPLA merits no consideration as the ratio of this will apply mutatis mutandis to the connected CPLA which is dismissed and leave refused.

Chief Justice

Judge

Judge

Islamabad:
26.02.2025

Approved for Reporting

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