This appeal with the leave of

the court dated involves a simple yet important question of

law i.e. whether an order under Section 24 of the Punjab Rented

Premises Act, 2009 *(the Act)* can be passed against a respondent of an

eviction application when he has denied the relationship of tenancy,

leave to contest has been granted pursuant to a leave application and

an issue to that effect has also been framed by the learned Rent

Tribunal.

2. The brief facts in the context of the aforesaid question

are that respondent No.1 *(respondent)* filed an eviction application

against the appellant under the Act asserting that the latter is a

tenant who failed to pay rent to the former according to the terms

and conditions of the lease agreement dated entered into

between the two parties. The application also states that such lease

agreement was not registered with the Rent Registrar therefore the

amount of 10% rent is being deposited as fine. The rate of rent was

claimed as per month. The appellant filed an application

for leave to contest in which he specifically and unequivocally denied

the relationship of tenancy and clearly set out a defence that he was

in occupation of the property pursuant to an agreement to sell dated

between the parties in terms whereof the appellant paid an

amount of at the time of execution [out of the total

consideration of and took possession; the balance

amount was/is payable at the time of the execution of the sale deed.

It was further averred that the appellant had already filed a suit on

for the performance of the agreement to sell whereas the

eviction application had been moved on It was

categorically stated that the lease agreement dated was/is a

fake and forged document. The learned Rent Tribunal *vide* order

dated 3.12.2014 granted leave to the appellant and in view of the

defence taken, framed a sole issue i.e. whether the relationship of

landlord and tenant exists between the parties, if so its effect.

However the learned Rent Tribunal observed that since the

relationship of landlord and tenant was yet to be determined,

therefore no order as to interim rent could be made. The respondent

did not challenge this order of the learned Rent Tribunal but instead

moved an application under Section 24 of the Act with the prayer

that an order for the deposit of past and future rent due be passed by

the Tribunal in terms of the section *ibid*. The application was

dismissed by the learned Rent Tribunal *vide* order dated 2.1.2015 on

the ground that since the respondent had denied the relationship of

landlord and tenant, the order for the deposit of rent under Section

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The petitioner is engaged in the activity of

producing ‘ghee’, which before its marketing is canned in tin containers also

manufactured by the petitioner. For the purpose of manufacturing tin

containers, the petitioner purchases tin plates. On the purchase of tin

plates, sales tax is payable whereas the petitioner mill at the relevant time

was exempted from the payment of sales tax on its taxable supplies under

SRO dated. For the period during which the petitioner

was enjoying tax exemption on its supplies, the petitioner sought refund of

the sales tax paid on the purchase of tin plates that were used in the

manufacture of tin containers. The reasoning behind such claim was that as

its tin containers are exempt from the payment of sales tax under the said

dated, the sales tax paid on tin plates may be

refunded. Taking into consideration the legal position that the sales tax

paid on goods that are used in the manufacture of ‘exempt supplies’

cannot be refunded under Section 8(1)(a) of the Sales Tax Act, 1990, the

Sales Tax Department refused to accept the petitioner’s claim. The decision

of the Department was challenged by the petitioner in an appeal before the

Customs, Excise and Sales Tax Appellate Tribunal, which was dismissed.

The same was then challenged in Sales Tax Appeal before the High Court,

which too met the same fate. Hence this petition.

2. Sahibzada Muhammad Khan, who is the Managing Director of

the petitioner company, appeared in person and argued the case. He

submitted that since the tin containers, which the petitioner manufactured

during the relevant period, were exempt from sales tax under SRO No.

580(I)/91 dated 27.06.1991 then any input tax paid on tin plates used in

the manufacture of such tin containers was liable to be refunded as denying

such relief would defeat the purpose of granting exemption under the said

SRO. In support of his contention, he relied upon the cases of M/s Mayfair

Spinning Mills Ltd, Lahore Vs. Customs, Excise and Sales Tax Appellate

Tribunal, Lahore etc (PTCL 2002 CL 115) and Azad Jammu & Kashmir

Government Vs. Spintex Limited (1998 PTD 3200) in order to demonstrate

that where exemption is granted then the principle of promissory estoppel is

attracted and no tax is to be charged.