

LHC upholds tax tribunal's verdict

LAHORE: The Lahore High Court on Wednesday upheld the decision of tax tribunal setting aside the suo motu powers of Federal Board of Revenue (FBR) to collect sales tax without registering a business person under Sale Tax Act 1990 and Sale Tax Rules 2006.

A two member bench comprising Justice Sajid Mahmood Sethi and Justice Muzammil Akhtar Shabir announced verdict by upholding the judgment of tax tribunal of LHC on the petitions moved by SK Steels mills and others.

The court held that the FBR will first register the business community as taxpayers and then will proceed for collection of sale tax under section 3 of Sale Tax Act 1990. It further added that all such collections of FBR from unregistered persons or any businessman will be unlawful. The petitioners SK Steels and others through Ajmal Khan Advocate argued that the FBR was collecting tax without giving any notice of recovery to them. He said that this practice of the FBR is tantamount to harassing the business sector which is already paying huge taxes and duties to the government.

He also pointed out that there was section 19 in the act which empowers the FBR for compulsory registration but this section was omitted and was inserted again in the Sales Tax Rules 2006. Under rule 6 sub rule 4 of the STR 2006, the FBR is bound firstly to register a business man compulsory and then it will precede further under section 3 and 7 by granting the registered person an opportunity of raising objections on the FBR demand notices. He further pointed out that registered persons and liable to be registered persons are two different things.

The counsel of FBR in reply submitted that the department had the power to collect the sales tax from any business person and there is no bar under the act which restrained the FBR from doing so. The FBR has powers to collect the sales tax from the registered persons and liable to be registered persons, he added.

RECORDER REPORT