

**Sales tax law: Reasons for writing order by authority should be cogent: SC**

The Supreme Court on Wednesday held that under the provisions of Sales Tax Act 1990, the reasons for writing an order by a sale tax authority are not mechanical, but should be cogent. A five-member larger bench, headed by Justice Sheikh Azmat Saeed, heard the appeal of Abbasi Enterprises Haripur, a distributor of Unilever Pakistan. The bench after hearing the arguments of the lawyers of appellant and Federal Board of Revenue allowed the appeal and said that the reasons for it be recorded later.

Representing Abbasi Enterprises, Farhat Nawaz Lodhi argued that the phrase contained in section 36(3) of the Sales Tax Act, 1990 "for reasons to be recorded in writing" is not mechanical, but the reasons should be solid and sound. He contended that since in his case no solid and sound reasons were given, the extension was illegal. Hence the recording of such reasons is mandatory.

A show cause notice under section 36(3) of the Sales Tax Act, 1990 was issued by an Additional Collector of Sales Tax, on 13-06-2005, to Abbasi Enterprises. The period for passing order-in-original was 90 days. An order could not be passed. Hence extension was applied by him on 22-09-2005, and then order-in-original was issued on 21-10-2005.

The said order was challenged by Abbasi Enterprises in Islamabad High Court. Although High Court held that the period of 90 days for passing Order-in-Original was mandatory, yet it also held that the extension granted was valid. An appeal was filed by Abbasi Enterprises against the Collectorate of Sales Tax and Federal Excise, Peshawar, inter alia on the ground that the provisions of section 36(3) as to extension of the original period for adjudication under the said section were not correctly appreciated by the Islamabad High Court in its judgment.

**TERENCE J SIGAMONY**