

Tax Bulletin

April 2025



Foreword



This publication contains brief commentary on Circulars, SROs and decisions of the adjudicating authorities issued during March 2025.

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Karachi
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Executive Summary

S.No.	Reference	Summary / Gist	Page No.
Direct Tax – Notifications			
1	S.R.O. 579(I)/2025	TAX EXEMPTION TO NON-RESIDENT INDIVIDUALS AND ENTITIES ASSOCIATED WITH THE ICC CHAMPIONS TROPHY 2025 IN PAKISTAN, INCLUDING ICC, IBC, PLAYERS, OFFICIALS, AND MEDIA REPRESENTATIVES.	07
Direct Tax – Un-Reported Decisions			
1	Civil Petition No. 862 of 2024-S.C.Pak	BANK STATEMENTS ALONE DID NOT CONSTITUTE "DEFINITE INFORMATION FOR THE PURPOSE OF SECTION 122(5A) OF THE ORDINANCE The SC dismissed the petition, affirming the High Court's judgment. It ruled that bank statements, without further evidence, do not meet the threshold of "definite information" under Section 122(5). Leave to appeal was declined.	07
2	Income Tax Reference Application No. 399 of 2023 (Sindh High Court, Karachi)	VALIDITY OF ADDITIONS UNDER SECTION 111 OF THE ORDINANCE WITHOUT SEPARATE NOTICE The SHC ruled that separate proceedings under Section 111 are mandatory and cannot be replaced by a combined notice under Section 122(9). It held that the 2022 Explanation to Section 111 does not apply retrospectively as it affects substantive taxpayer rights.	08
3	ITA No.5221/LB/2023	SPECIAL LAW HAS OVERRIDING EFFECT OVER ALL OTHER GENERAL LAWS PRESENT AND FUTURE ATIR held that: FADRA being the special law, prevails over the CVT Act, 2022 and consequently, any foreign assets declared under the FADRA are immune from imposition of taxes under any law for the time being in force, which includes CVT Act, 2022	08
4	CP D 713 of 2024	STATUTORY PROVISION COULD NOT BE STRUCK DOWN ON THE BASIS OF APPREHENSIONS OR SURMISES The SHC upheld the validity of Section 99D of the Income Tax Ordinance, 2001, and SRO 1588(I)/2023, dismissing the petitions challenging the windfall tax. The Court held that retrospective taxation is permissible under the Constitution and that statutory provisions cannot be struck down based on mere apprehensions or policy concerns.	09

S.No.	Reference	Summary / Gist	Page No.
Direct Tax – Reported Decisions			
1	2025 PTD 431	<p>A LITIGANT MUST CHOOSE ONE REMEDY AND CANNOT PURSUE MULTIPLE AVENUES FOR THE SAME GRIEVANCE</p> <p>The SHC dismissed the constitutional petition, holding that the petitioner could not pursue parallel remedies for the same grievance. Since appellate remedies under the Income Tax Ordinance were already being availed, invoking constitutional jurisdiction without first challenging the vires of the law was barred under the Doctrine of Election.</p>	10
2	2025 PTD 380	<p>INQUIRY AMOUNTED TO A "FISHING EXPEDITION," IS NOT PERMITTED UNDER LAW</p> <p>ATIR ruled that the notice issued under Section 176 was a fishing inquiry as it lacked definite information, making the amended assessment under Section 122(5) invalid. The Tribunal found that the taxpayer's declared liability, related to a family settlement, was not properly verified by the Assessing Officer, and thus the amendments were unjustified.</p>	11
3	(2024) 130 TAX 237 = 2025 PTD 313	<p>CONSTITUTIONALITY OF CAPITAL VALUE TAX ON FOREIGN ASSETS & SCOPE OF FEDERAL LEGISLATIVE COMPETENCE UNDER ENTRY 50 OF THE FOURTH SCHEDULE</p> <p>The LHC examined the constitutionality of Section 8(2)(b) of the Finance Act, 2022, which imposed Capital Value Tax (CVT) on foreign assets of resident individuals. The Court held that the Federal Government lacked the authority to levy CVT on immovable property, even if located abroad, due to the exception in Entry 50 of the Fourth Schedule of the Constitution. The section was declared unconstitutional and struck down.</p>	12
Indirect Tax Notifications - Sales Tax Act, 1990			
Federal Sales Tax – Notifications/Circulars			
1	S.R.O. 364(1)/2025 dated March 14, 2025	FBR has made further amendments under the chapter XIV-BA of the Sales Tax Rules, 2006 introducing new directives whereby manufacturers of specified goods must ensure that production undergoes a monitoring process using video surveillance, which will be mandatory before goods are allowed to leave the premises. Further, the exclusion previously introduced in case of digital eye procurement has been done away resulting in it to be subject to same procedures as applicable in case of other production monitoring equipment.	14

S.No.	Reference	Summary / Gist	Page No.
Indirect Tax – Reported Decisions			
Sales Tax Act, 1990			
1	2025 PTD 459 SINDH HIGH COURT	<p>THE PLAINTIFF SHOULD FIRST EXHAUST REMEDIES BEFORE TAX AUTHORITIES RATHER THAN APPROACHING THE CIVIL COURT PREMATURELY.</p> <p>The SHC dismissed the suit as non-maintainable for the reasons that the plaintiff did not deposit 50% of the disputed tax amount as required by Supreme Court precedent, and the court emphasized that taxpayers must exhaust administrative remedies before litigating tax notices, discouraging direct court intervention unless a jurisdictional defect is evident.</p>	15
2	2025 PTD 399 PESHAWAR HIGH COURT	<p>THE AMENDMENT IN ENTRY NO. 151 OF THE SIXTH SCHEDULE DOES NOT QUALIFY THE TEST OF REASONABLENESS, BESIDES IT IS DISCRIMINATORY AND ULTRA VIRES.</p> <p>The PHC decided the case in favor of the petitioners, striking down the amendment to Entry No. 151 as unreasonable and discriminatory. It was found that the pay order requirement converted the tax exemption into a de facto tax liability, violating constitutional rights.</p> <p>The Court deemed the requirement ultra vires to the Sales Tax Act and reinstated the previous practice of accepting post-dated cheques as security, allowing petitioners to reclaim their pay orders and use post-dated cheques for tax-exempt imports.</p>	16
Sindh Sales on Services Act, 2011 – Reported Decision			
1	SPECIAL SALES TAX REFERENCE APPLICATION NO. 169 OF 2018 SINDH HIGH COURT	<p>ORDER-IN-ORIGINAL IS PASSED BEYOND PRESCRIBED TIME PERIOD AND HENCE BARRED BY TIME LIMITATION, DESPITE ADJOURNMENTS, WITH NO FORMAL EXTENSION DOCUMENTED.</p> <p>The Court held that the Tribunal incorrectly interpreted the time limits provided in the Sindh Sales Tax on Services Act, 2011, which permitted a maximum period of 120 days for issuing an Order, extendable by 60 days only with proper documentation. As no extension was recorded, the Order was deemed to be issued beyond the legal timeframe, emphasizing that formal requests for extension must be made before the original deadline expires.</p> <p>The SHC allowed the reference application and vacated the Order-In-Original as time barred.</p>	17

Income Tax Ordinance, 2001

A. Notifications:

1. S.R.O. 579(I)/2025 dated April 9, 2025

A new clause (98AA) is added in Second Schedule, Part I to the Ordinance through subject SRO which grants tax exemption to non-resident individuals and entities associated with the ICC Champions Trophy 2025 in Pakistan, including ICC, IBC, players, officials, and media representatives. The exemption applies to income earned in connection with the event.

B. Un-Reported Decisions

1. BANK STATEMENTS ALONE DID NOT CONSTITUTE "DEFINITE INFORMATION FOR THE PURPOSE OF SECTION 122(5A) OF THE INCOME TAX ORDINANCE, 2001

**Civil Petition No. 862 of 2024
SUPREME COURT OF PAKISTAN
COMMISSIONER INLAND REVENUE,
(SPECIAL ZONE FOR BUILDERS AND
DEVELOPERS) REGIONAL TAX OFFICE,
ISLAMABAD**

VERSUS

M/S KHUDADAD HEIGHTS, ISLAMABAD

**APPLICABLE SECTIONS: SECTIONS
122(1), (5), AND (9) OF THE INCOME
TAX ORDINANCE, 2001**

Brief Facts:

The case centered on the interpretation of "definite information" required to amend an assessment under Section 122 of the Ordinance. The petitioner initiated reassessment proceedings for the tax year 2006 based solely on the respondent's bank statements, alleging undisclosed income.

The petitioner contended that the Islamabad High Court misapplied precedents (Khan CNG Filling Station and Bashir Ahmed decided under the repealed 1979 Ordinance), which had a stricter definition of "definite information". They

argued that the 2001 Ordinance provides a broader scope, allowing reassessment based on audit or definite information.

On the contrary, the respondent (taxpayer) maintained that bank entries, without corroboration, do not definitively prove taxable income, as they could reflect loans or other non-income transactions.

Decision:

The leave to appeal was dismissed by the Supreme Court. It was asserted by the Court that "definite information" must demonstrate a clear nexus to taxable income, not a mere transactional data. Section 122(5) requires "definite information" to prove escaped income, under-assessment, or a misclassification and no speculative inferences are allowed to be drawn. The Court made a parallel comparison of section 65 of the Income Tax Ordinance, 1979 vis-à-vis section 122 (5A) of the Income Tax Ordinance, 2001 and noted that procedural mechanism have changed, however, the core requirement of "definite information" persisted. The Court distinguished the present case from Khan CNG Filling Station Case reported as 2017 SCMR 1414, wherein a mathematical formula was applied to gas volume and thus this constituted definite information. However, in this case, holding bank statements lack inherent definitiveness, unless linked to taxable income.

The Court Upheld the Tribunal's decision that the department failed to prove bank entries represented undisclosed income, emphasizing that "definite information" must be case-specific and verifiable.

2. VALIDITY OF ADDITIONS UNDER SECTION 111 OF THE ORDINANCE WITHOUT SEPARATE NOTICE

**INCOME TAX REFERENCE APPLICATION
NO. 399 OF 2023
SINDH HIGH COURT, KARACHI
ABDUL QADIR**

VERSUS

**APPELLATE TRIBUNAL INLAND
REVENUE & OTHERS**

**APPLICABLE SECTIONS: SECTIONS 111
AND 122(5), (9) OF THE INCOME TAX
ORDINANCE, 2001.**

Brief Facts:

The Appellant challenged an order of the ATIR (ITA No. 89/KB/2023) for Tax Year 2015, which upheld additions made under Section 111 of the Ordinance without issuing a separate notice under the said provision. It was contested by the Appellant (Taxpayer) that the additions were based on alleged unexplained income / assets, confronted only through a notice under Section 122(9). The Applicant further contended that the Tribunal erred in applying the Explanation to Section 111 (inserted via Finance Act, 2022 retrospectively) to dispense with the mandatory separate notice requirement. The respondent (department) contended that the Explanation inserted in Section 111 (2022) is applicable retrospectively and validated additions made vide a combined notice under Section 122(9), eliminating the need for a standalone Section 111 notice. The Respondent further argued that the Explanation was clarificatory and thus applied to past tax years (like 2015).

Decision:

The Court accepted the stance of the Taxpayer and set-aside the impugned orders of the below authorities and allowed the Reference application. The Court placed its reliance on the reported Judgement of Supreme Court of Pakistan in Commissioner Inland Revenue v. Millat Tractors Limited (2024 SCMR 700). The said judgement underscores right of taxpayers under Articles 4 (right to due process) and 10A (fair trial) of the Constitution and demands strict adherence to procedural fairness in tax assessments. The Court further held

that even if a notice under Section 122(9) mentions reference to Section 111, still separate proceedings under Section 111 were indispensable to meet the statutory threshold of "definite information."

The Court rejected the Respondent's argument that the 2022 Explanation to Section 111 (which eliminated the need for a separate notice) applied retrospectively. It ruled that the Explanation curtailed a substantive right of the taxpayer's entitlement to standalone Section 111 proceedings and thus could not be imposed retroactively without explicit legislative intent. The Court clarified that while explanatory provisions are generally interpretive, those altering substantive rights operate prospectively only. Since the tax year in question (2015) predated the amendment, the Explanation had no bearing on the case. It further affirmed that Tax authorities must conclude Section 111 proceedings before invoking Section 122(5) of the Ordinance.

3. SPECIAL LAW HAS OVERRIDING EFFECT OVER ALL OTHER GENERAL LAWS, PRESENT AND FUTURE

**ITA No.5221/LB/2023 (TAX YEAR
2023)
APPELLATE TRIBUNAL INLAND
REVENUE, LAHORE
SHAHZAD SALEEM, LAHORE**

VERSUS

CIR, ZONE-AEOI, LTO, LAHORE

**APPLICABLE SECTIONS: 8(7) OF CVT
ACT, 2022, 3& 8 OF FOREIGN ASSET
(DECLARATION & REPATRIATION) ACT,
2018
RULE 6(2) OF CVT RULES, 2022.**

Brief Facts:

The appellant is an individual resident taxpayer, filed return of income along with wealth statement and foreign income & asset statement for tax year 2023. The appellant discharged CVT liability partially and not on entire foreign assets declared in wealth statement. In this respect notice was issued. Reply filed by the appellant was not accepted and hence order passed creating CVT demand. The appellant filed appeal before CIRA, which was rejected, therefore, an appeal filed before the ATIR.

Arguments

The appellant argued that:

- The Order is without judication and has no legal effect in the absence of specific notification/order from FBR in respect of CVT.
- CVT was levied on those foreign assets of appellant, which were declared under the Foreign Asset (Declaration & Repatriation) Act, 2018 (FADRA). Under section 3 and 8 of FADRA, being in the nature of special law, the provisions had an overriding effect over all other laws present and future, including CVT Act, 2022 and thus foreign assets were immune from any further tax. Reliance was placed on reported judgements PLD 1961 SC 585 and 2017 SCMR 1218 to support interpretation of the expression **"any law for time being in force"** and supremacy of a special law over general law.
- Reliance of department on the decisions of LHC reported as (2023) 127 Tax 73 and SHC reported as (2023) 127 Tax 49 is utterly misplaced, as the issue relating to supremacy of FADRA over CVT Act, 2022 was not subject matter of above referred judgements.
- The earlier decisions of the ATIR settled the matter of chargeability of CVT, including on assets declared under FADRA, in favour of department by placing reliance on LHC and SHC decisions, without dilating upon the issue of supremacy of FADRA over CVT Act, 2022.

Decision:

- The Tribunal held that the High Court judgement relates to the legislative competence of the Parliament / Federal Government to impose CVT on foreign immovable properties inter alia in the context of entry 50 of the federal legislative list of the constitution of Pakistan, post amendment to the constitution. There is nothing mentioned in the judgement which could, by any stretch of imagination, be construed to have dealt with question relating to supremacy of FADRA over the CVT Act, 2022. The questions in the

instant case is, however, not the one relating to constitutional validity of CVT, rather the issue involved relates to the interpretation of provision of sections 3 and 8 of FADRA, which was neither raised before the High Court nor the same was discussed or decided.

- The Tribunal held that FADRA being the special law, prevail over the CVT Act, 2022 and consequently, any foreign assets declared under the FADRA are immune from imposition of taxes under any law for the time being in force, which includes CVT Act, 2022.

4. STATUTORY PROVISION COULD NOT BE STRUCK DOWN ON THE BASIS OF APPREHENSIONS OR SURMISES

**CP D 713 of 2024
SINDH HIGH COURT
NATIONAL BANK OF PAKISTAN**

VERSUS

FEDERATION OF PAKISTAN & OTHERS

**APPLICABLE SECTIONS: 99D OF THE
INCOME TAX ORDINANCE, 2001**

Brief Facts:

Section 99D was inserted in the Ordinance vide the Finance Act 2023 and provide an additional tax on companies earning windfall income, profits, or gains due to economic factors such as international commodity price or foreign currency fluctuations, applicable for the last three tax years before tax year 2023 and onwards. SRO 1588 (I) of 2023 ("SRO") was issued on November 21, 2023, in exercise of powers conferred vide 99D specifying the persons covered under section 99D.

Petitioners challenged the windfall tax regime through constitutional petitions, essentially seeking that both Section 99D and the SRO be declared unconstitutional or unlawful. However, their cause of action (i.e. what triggered the legal challenge) was the issuance of notices under Section 122(9) of the Ordinance.

Arguments

Petitioner argued that:

- Section 99D envisaged retrospective taxation; unsustainable on the touchstone that the tax liability of the assessee had become a past and closed transaction at close of tax year / submission of relevant returns. Statutory provision was indefensible as it was alien to Entry 47 of the Constitution and was capable of being discriminatory.
- The SRO was ultra vires of section 99D, issued during a caretaker period and not placed before the Parliament in the requisite time, hence, ought to be struck down. Petitioners argue that SRO was issued by a caretaker government, which, under Section 230 of the Elections Act 2017, should not make major policy or fiscal decisions.

Decision:

SHC dismissed the petitions challenging the imposition of the windfall tax through Section 99D and SRO 1588(I)/2023 and decided the matter as follows:

Legislative competence

- Article 142 is the main source of the powers of Parliament to make laws. It is observed that there is no restriction upon legislation regarding enactment of laws having retrospective effect; save that such power is subject to the Constitution (unless the Constitution explicitly forbids it).
- Article 260 of the Constitution broadly defines taxation to include all types of taxes and specifically includes excess profits tax within the definition of income tax.
- Entries 47 and 48 of the Fourth Schedule place taxes on income and corporations exclusively within the legislative authority of the Federal Parliament, confirming its competence to enact laws like Section 99D.

- Article 77 mandates that taxes must be imposed by or under the authority of an Act of Parliament, thereby constitutionally empowering Parliament to levy taxes like the windfall tax on excess profits and corporations through laws such as Section 99D.

Retrospective taxation – vested right

- The Supreme Court in Mekotex (PLD 2025 Supreme Court 1168.) affirmed that legislature can enact laws with retrospective effect, even overriding vested rights. Therefore, challenges to section 99D based on retrospective taxation cannot succeed.

Placing before Parliament

- The SHC found SRO was issued on November 21, 2023, and submitted on February 16, 2024, well within the 90-day legal timeframe. Therefore, petitioners' argument that the SRO for section 99D was not timely placed before Parliament as required was not justified.

The Elections Act 2017

- SHC held that section 99D does not limit the Federal Government to be only an elected one, and since the SRO was necessary, impartial, and reversible, it did not breach the Constitution.

C. Reported Decisions

1. A LITIGANT MUST CHOOSE ONE REMEDY AND CANNOT PURSUE MULTIPLE AVENUES FOR THE SAME GRIEVANCE

**2025 PTD 431
SINDH HIGH COURT
ORIENT ENERGY SYSTEMS (PVT.) LTD.
THROUGH AUTHORIZED OFFICER**

VERSUS

**THE ASSISTANT/DEPUTY
COMMISSIONER (AUDIT-II) INLAND
REVENUE AND 3 OTHERS**

**APPLICABLE SECTIONS: SECTIONS 4C,
124,129,221 OF THE INCOME TAX
ORDINANCE, 2001, 199 OF
CONSTITUTION OF PAKISTAN, 1973**

Brief Facts:

The petitioner, a company, filed a constitutional petition challenging an order passed under Section 221 of the Ordinance. It relied on the precedent set in *Shell Pakistan Limited v. Federation of Pakistan* (2023 PTD 607), wherein Section 4C of the Ordinance was discussed.

The petitioner had not challenged the vires of Section 4C, nor had it exhausted the alternate remedy provided under the tax hierarchy. The petitioner had already contested a Show-Cause Notice, and orders under Sections 124 and 129 were passed. The taxpayer was also pursuing appellate remedies.

Decision:

The SHC dismissed the constitutional petition with costs, holding that the petitioner could not simultaneously avail two parallel remedies. The SHC emphasized the Doctrine of Election, stating that a litigant must choose one remedy and cannot pursue multiple avenues for the same grievance. Since the petitioner had already engaged with the departmental hierarchy, it was barred from invoking constitutional jurisdiction, without first challenging the vires of the provision or exhausting alternate remedies.

2. INQUIRY AMOUNTED TO A "FISHING EXPEDITION," IS NOT PERMITTED UNDER LAW 2025 PTD 380

**APPELLATE TRIBUNAL INLAND REVENUE
IRFAN ULLAH, IRFAN TRADERS**

VERSUS

THE COMMISSIONER INLAND REVENUE, RTO, PESHAWAR

APPLICABLE SECTIONS: 39(3), 111, 122, 122(1), 122(5), 122(9), 176, 176(1), 177 OF THE INCOME TAX ORDINANCE, 2001

Brief Facts:

The Appellant taxpayer is an individual, deriving income from running a business under the name and style of 'Tobacco Dealer', who filed return of income tax for

tax year 2017. The return so filed constituted deemed assessment order in terms of section 120 of the Ordinance. Show cause notice was issued to the appellant for furnishing of documentary evidence related to receipt of the liability (declared in the wealth statement) made through banking channel. In response, the appellant taxpayer submitted its replies on different dates, which were found unsatisfactory. Resultantly, the proceedings culminated in passing of an amended assessment order under section 122(1) read with section 122(5) of the Ordinance, wherein the Assessing Officer made addition under section 39(3) of the Ordinance. Being aggrieved, appeal was filed before CIRA, who confirmed the order of assessing officer. Hence, the Appellant preferred an appeal before the ATIR.

Arguments

The appellant argued that:

- Impugned order passed under section 122 read with sections 39(3) and 111 of the Ordinance is a nullity in the eyes of law because it was not based on any definite information.
- Issuance of notice under section 176 to the appellant taxpayer amounted to fishing and roving inquiries which also indicate that the Assessing officer had no definite information in his possession before proceeding under section 122 of the Ordinance.
- Assessing Officer has not brought anything on record in support of his allegation that the liability declared in the wealth statement was any loan acquired during the tax year. Appellant explained that the declared liability was in fact amounts payable to brothers and sisters of the appellant in terms of the family settlement deed regarding distribution of inherited property among the brothers against a commercial property.

Decision:

ATIR decided the matter in favor of appellant as follows:

- The Assessing Officer issued notice under Section 176 because he was

uncertain whether the appellant had actually received a loan during the tax year. This lack of clarity shows he did not possess definite information, which is a legal requirement for amending an assessment under Section 122(5). The use of Section 176 in this context was viewed as a fishing inquiry, which is not permissible under law and settled principle in the matter.

- After the appellant explained that the liability arose from a family settlement of inherited property, the Assessing Officer should have verified this through an audit under Section 177, but failed to do so. Instead, he proceeded to pass an order under Sections 122 and made additions under section 39(3), without rebutting or verifying the appellant's claim. As such, notices under sections 176 and 122(9) were, therefore, not in accordance with the law and settled principles about what constitutes definite information.

3. CONSTITUTIONALITY OF CAPITAL VALUE TAX ON FOREIGN ASSETS & SCOPE OF FEDERAL LEGISLATIVE COMPETENCE UNDER ENTRY 50 OF THE FOURTH SCHEDULE

**(2024) 130 TAX 237 = 2025 PTD 313
LAHORE HIGH COURT
MRS. SHEHLA TARIQ SAIGOL AND
OTHERS**

VERSUS

**FEDERATION OF PAKISTAN AND
OTHERS
APPLICABLE LAWS:
CONSTITUTION OF PAKISTAN, 1973:
ARTICLES 141, 142, 142(A)(E), 143;
ENTRIES 44 & 50 OF THE FOURTH
SCHEDULE**

**FINANCE ACT, 2022: SECTION 8(2)(B)
(CAPITAL VALUE TAX ON FOREIGN
ASSETS OF RESIDENT INDIVIDUALS)**

**INCOME TAX ORDINANCE, 2001:
SECTION 8**

Brief Facts:

The appellants contested the constitutionality of Section 8(2)(b) of the Finance Act, 2022, which introduced a

Capital Value Tax (CVT) on the foreign assets of resident individuals, applicable where the total value of such assets exceeds PKR 100 million. The key issue was whether the federal government possessed the legislative authority to impose a tax on immovable foreign assets under Entry 50 of the Federal Legislative List, considering that this entry expressly excludes "taxes on immovable property" from the scope of federal taxation powers.

Arguments:

The Appellant argued that:

- That the exclusion clause in Entry 50 of the Federal Legislative List—"not including taxes on immovable property"—expressly prohibits the Federal Government from levying taxes on immovable property, regardless of whether such property is located within Pakistan or outside its territorial boundaries.
- They argued further that this exclusion operates as a substantive limitation, restricting the federal taxing authority under Entry 50 to movable assets alone.
- Additionally, the appellants pointed to the Punjab Finance Act, 2017, which imposed a Capital Value Tax (CVT) on immovable property within the province. This, they submitted, affirmed that the constitutional competence to tax immovable property lies exclusively with the provincial legislatures.

On the other hand Respondent argued that:

- That Entry 50 of the Federal Legislative List permits the imposition of Capital Value Tax (CVT) on all types of assets i.e. movable and immovable, except immovable property located within Pakistan. Since the exclusion pertains only to domestic immovable property, the federation retains the authority to tax foreign immovable assets.
- It was further submitted that Article 141 of the Constitution empowers the federal legislature to enact laws with extraterritorial application. Based on this provision, the federal government can validly impose taxes on foreign

assets held by residents of Pakistan, including immovable property located abroad.

- The respondents emphasized that the CVT under Section 8(2)(b) of the Finance Act, 2022, is a tax on the resident individual's wealth and not on the property itself. As the tax liability arises from the ownership of foreign assets by a resident, rather than from the property per se, it falls within the scope of federal jurisdiction.

Decision

The majority of the Judges held that:

- Entry 50 of the Federal Legislative List must be read as a whole. The phrase "not including taxes on immovable property" acts as a limitation, barring the Federal Government from taxing

immovable property, whether located in Pakistan or abroad.

- The 18th Amendment broadened this exclusion by removing the reference to "capital gains," thereby excluding all forms of tax on immovable property from federal jurisdiction. While provinces can tax immovable property under Article 142(c), they lack extraterritorial powers under Article 141, meaning they cannot tax property located outside Pakistan.
- Following the reasoning of the Sindh High Court, the majority concluded that neither Federal nor Provincial Government has the authority to tax foreign immovable assets. As a result, Section 8(2)(b) of the Finance Act, 2022 was declared unconstitutional, and all CVT collected under it was ordered to be refunded.

Sales Tax Act, 1990

A. Notifications:

1. S.R.O. 364(1)/2025 dated March 14, 2025

In December 2024, certain amendments were made in Chapter XIV-BA of the Sales Tax Rules, 2006 to incorporate the innovative Digital Eye system and multiple rules were amended to exclude Digital Eye procurement from routine vendor authorization and approval procedures as applicable for other surveillance tools, ensuring its swift and efficient implementation.

Through this notification, FBR has made further amendments under the aforesaid chapter introducing new directives whereby manufacturers of specified goods must ensure that production undergoes a monitoring process using video surveillance, which will be mandatory before goods are allowed to leave the premises. Further, the exclusion previously introduced in case of DigitalEye procurement has been done away resulting in it to be subject to same procedures as applicable in case of other production monitoring equipment.

Other key changes of the revised rules are summarized as under:

Rule 150ZQT- Goods to be monitored electronically

FBR has made it mandatory for the production of specified goods to be monitored electronically through a comprehensive system that integrates video surveillance, video analytics solutions, and digital eye technology for the following;

- real time capture of production process;
- real time collection of data that shows production through object detection and object counting;
- transmission of data to Central Control Unit at Board on real time basis, storage and archiving of data;

- detection of unexpected stops;
- quantitative analyses of productions; and
- data analytics for required legal actions.

Further, no manufacturer producing specified goods shall be permitted to remove products from their premises unless the entire production process has been monitored electronically in accordance with these new rules.

Authorization criteria and Board's IT teams Functions Rule 150ZQX & 150ZQY

Previously the key required features of the system and the responsibility of the Board's IT team were prescribed. The revised rules require that the authorized vendor shall demonstrate the working of the production monitoring equipment as specified by the Board. Similarly, the Board's IT team shall perform functions as specified by the Board.

Rule 150ZQZ:

New amendment has enhanced the timeframe related to application for authorization process from 'thirty' days to 'sixty' days and introduced a requirement for a qualified applicant to deposit an unconditional bank guarantee equivalent to 5% of the project cost or 5 million rupees, whichever is lower, before the issuance of authorization. Such bank guarantee must remain valid for the entire duration of the authorization and can be encashed for violations of the rules or terms of authorization.

Rule 150ZQZA – Responsibilities of the Vendor:

Vendors are now required to procure, install, and maintain production monitoring equipment at production lines. The expected delivery and installation timeline for this equipment has been extended from sixty days to ninety days from the date of the purchase order.

Additionally, the vendor is tasked with assisting the IT team of the Board in performing their functions, rather than assisting a specific company. Furthermore, the vendor must now ensure that all software upgrades, bug fixes, and immediate responses to any technical problems are managed effectively, providing support during both holidays and working days to ensure uninterrupted operation of the system.

Rule 150ZQZC - Technical and training support:

The amendment made in this Rule has expanded the role of the authorized vendor to include comprehensive training and documentation for IR officers, showcasing an increased emphasis on operational readiness and knowledge transfer.

Rule 150ZQZD – Fees and charges:

New amendment significantly expanded and formalized the framework governing fees and charges levied by vendors on manufacturers for production monitoring equipment. It introduces regulatory oversight through an Approval Committee, ensures transparency through public notification, provides a structured process for fee revisions with opportunities for manufacturers to participate, and allows for the cancellation of vendor authorization under certain circumstances.

Rule 150ZQZE:

The amendment introduces shifting focus from specific technologies (intelligent video analytics and digital eye) to broader categories (production monitoring equipment). Additionally, the amendment added a new clause addressing IT infrastructure and reduces reporting time for operational issues from 24 hours to 1 hour.

B. Reported Decisions

1. THE PLAINTIFF SHOULD FIRST EXHAUST REMEDIES BEFORE TAX AUTHORITIES RATHER THAN APPROACHING THE CIVIL COURT PREMATURELY.

2025 PTD 459

SINDH HIGH COURT

M/S. ASG METALS LIMITED

VS

THE COMMISSIONER INLAND REVENUE

Applicable provisions: Section 11, 11(2) and 11(3) to the Sales Tax Act, 1990 (the Act)

Brief facts:

In the instant case, the plaintiff, challenged Show-Cause Notice (SCN) issued by the tax authorities under Sections 11(2) and 11(3) of the ST Act whereby the Plaintiff was alleged to pay the unpaid taxes. However, rather than complying with the statutory requirement to approach the adjudicating or appellate authorities first, the plaintiff chose to file a civil suit in the Sindh High Court against the department. The tax authorities countered by raising objections regarding the maintainability of the suit, relying on precedents set by the Supreme Court, in the case reported as 2018 SCMR 1444 which dictated that certain conditions must be met for civil suits to be entertained in tax matters.

Decision:

The Sindh High Court dismissed the suit and held it to be non-maintainable for following two primary reasons:

- The plaintiff failed to comply with the requirement to deposit 50% of the disputed tax amount, which is mandatory as per the ruling of Supreme Court in the case reported as 2018 SCMR 1444. The court rejected the plaintiff's argument that the tax was not yet "calculated" since the tax was still subject to assessment, asserting this would defeat the Supreme Court's intent.
- The Court emphasized that taxpayers should first exhaust administrative remedies before challenging tax notices in court. Direct interference at the stage of a show-cause notice is generally discouraged unless a jurisdictional defect is present.

2. THE AMENDMENT IN ENTRY NO. 151 OF THE SIXTH SCHEDULE DOES NOT QUALIFY THE TEST OF REASONABLENESS, BESIDE IT IS DISCRIMINATORY AND ULTRA VIRES.

**2025 PTD 399
PESHAWAR HIGH COURT**

**M/S. TAJ VEGETABLE OIL PROCESSING
UNIT (PVT.) LTD AND OTHERS**

VS

**FEDERATION OF PAKISTAN AND
OTHERS**

Applicable provisions: Section 13 and Entry No. 151 of Sixth Schedule of the ST Act.

Brief facts:

In the instant case, the petitioner along-with other petitioners challenged an amendment made through the Finance Act, 2024, which substituted the requirement of providing "post-dated cheques" with "pay orders" for importing plant, machinery, and raw materials by industries in the erstwhile FATA/PATA.

Before the 25th Constitutional Amendment, tax laws including the Sales Tax Act, 1990 were not applicable in these regions. After the merger, although tax laws were extended, exemptions for such areas were also granted via SROs and the Sixth Schedule of the ST Act. The petitioners argued that this amendment negates their tax privileges under Entry No. 151, that it unfairly imposes conditions that can only be

set by the Federal Government, and that it is discriminatory, infringing upon their constitutional rights under Articles 18, 23, 24, and 25 of the Constitution of Pakistan.

The Federal Board of Revenue and other interveners, argued that the legislation was legitimate and necessary to prevent revenue leakage and ensure a level playing field for industries.

Decision:

The Peshawar High Court decided the petition in favor of the petitioners and accordingly struck down the amendment in Entry No. 151 as unreasonable, discriminatory, and violating constitutional rights.

The Court found that the amendment, which required a pay order in place of post-dated cheque, transformed the tax exemption into a de-facto tax liability, contravening the essence of the exemptions initially granted.

The Court highlighted that there is no similar provision for other exemptions in the Sixth Schedule and held that such requirement was ultra vires to the ST Act and affirmed the validity of the previous practice of allowing post-dated cheques as security. The Court held the petitioners entitled to have their pay orders returned and revert to using post-dated cheques for their tax-exempt imports.

Sindh Sales Tax on Services Act, 2011

A. Reported Decision

1. ORDER-IN-ORIGINAL IS PASSED BEYOND PRESCRIBED TIME PERIOD AND HENCE BARRED BY TIME LIMITATION, DESPITE ADJOURNMENTS, WITH NO FORMAL EXTENSION DOCUMENTED.

SPECIAL SALES TAX REFERENCE APPLICATION NO. 169 OF 2018 SINDH HIGH COURT

M/S. DOGMA SECURITY AND CONSULTANCY SERVICES (PVT.) LTD

VS

THE COMMISSIONER INLAND REVENUE, SINDH REVENUE BOARD

Applicable provisions: Section 23 of the Sindh Sales Tax on Service Act, 2011.

Brief facts:

M/s. Dogma Security & Consultancy Services (Pvt) Ltd. filed a Special Sales Tax Reference Application against the appellate order issued by the Appellate Tribunal of the Sindh Revenue Board (SRB). The company contended that the Order-in-Original was time-barred in terms of Section 23(4) of the Sindh Sales Tax on Service Act, 2011 as the Show-Cause Notice was issued on April 21, 2015, but the Order-in-Original was not passed until February 27, 2016.

The SRB Tribunal upheld the validity of the order and interpreted the amended subsection 23(4) of the Act to imply that there was no limit on excluding time for adjournments after amendments made in 2014. Being aggrieved, the company came up with the Special Sales Tax Reference Application before the Hon'ble Sindh High Court (SHC).

Decision:

The SHC allowed the reference application and set aside the Order-in-Original being time-barred.

The Court held that the Tribunal erred in its interpretation of the time limits outlined in Section 23 of the Sindh Sales Tax on Services Act, 2011. The law in place prior to 2017, limited the timeframe for an Order-in-Original to 120 days from the date of the SCN, with a possible extension of an additional 60 days, subject to documented reasons.

The Court noted that there was no recorded extension granted for the additional time in the proceedings, which meant the Order-in-Original was effectively issued beyond the legally stipulated timeframe. The Court emphasized that a presumption of non-extension to be applied in the absence of explicit documentation and that any such extensions should be formally granted before the expiration of the original deadline.

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Yousuf Adil, Chartered Accountants provides Audit & Assurance, Consulting, Risk and Financial Advisory and Tax & Legal services, through over 725 professionals in four cities across Pakistan.

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