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Tax Bulletin

August 2025

Tax

Foreword

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

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Income Tax Ordinance, 2001

A. Notifications:

1. S.R.O. 1366(I)/2025 dated July 30, 2025

Finance Act, 2025 introduced the Digital Presence Proceeds Tax Act, 2025, creating a new taxation regime on income derived through digital presence in Pakistan.

The purpose was to bring e-commerce, online platforms, and cross-border digital transactions into the tax net, especially where foreign suppliers earn from Pakistani users.

However, now through this notification FBR effectively put in abeyance the application of recently promulgated Digital Presence Proceeds Tax Act.2025 and no five percent shall be chargeable on payments made to non-resident suppliers.

The notification has provided a retrospective application i.e. from July 01, 2025.

B. Reported Decisions

1. PRECEDING FOUR TAX YEARS" IN CLAUSE (105A) REFERS TO THE TAX YEAR AUDITED, NOT THE YEAR AUDIT CONCLUDED

(2025) 132 TAX 117

ISLAMABAD HIGH COURT

PAK TELECOM MOBILE LIMITED

vs.

FEDERAL BOARD OF REVENUE, ETC.

Brief facts

The petitioner (taxpayer) challenged a tax audit notice issued under section 177 of the Ordinance for Tax Year 2018. The petitioner relied on Clause (105A) added through Finance Act, 2022, which provides that once a taxpayer has been audited, he cannot be audited again for the next four tax years.

The petitioner argued that its last audit was for TY 2017, completed in 2021, so the four-year protection should start from 2021. It was also contended that Clause (105A) is a beneficial law and should apply to past years as well and therefore, the audit notice and refusal were without legal authority and against constitutional rights under Articles 4 and 10-A of the constitution.

Decision

The IHC dismissed the petition and held that:

- The phrase "preceding four tax years" in Clause (105A) means counting from the year actually audited, not the year when the audit was completed.
- Since the petitioner's audit was for TY 2017, it does not block an audit for TY 2018. As the Clause (105A) is not retrospective; tax laws apply prospectively unless clearly stated otherwise, and this clause is not a remedial or curative provision that would justify retrospective application.
- Since the audit notice was issued before the amendment, there was no legal restriction on audit proceeding for the TY 2018. Also, selection for audit under Section 177 is only a verification step and does not in itself amount to any legal harm. The court referred to precedents, including M/s Rajby Industries (2023 SCMR 1407) and CIR v. Allah Din Steel (2018 SCMR 1328), in support.

2. EACH TAX YEAR IS A SEPARATE UNIT; FINANCE ACT, 2017'S AMENDMENT CANNOT BE APPLIED TO TY 2015

2025 PTD 1001 = (2025) 132 TAX 17

LAHORE HIGH COURT

SHEIKH NASEEM AKHTAR

VERSUS

COMMISSIONER INLAND REVENUE (LEGAL) ETC

Brief Facts

The appellant (taxpayer) derived income from the sale/purchase of kitchen/table

glass ware and filed return for tax year, 2015, which was taken to be assessment order under Section 120 of the Ordinance.

Notice under Section 122(5A) of the Ordinance, was served by confronting payment of turnover/minimum tax under Section 113 and construing the assessment order as erroneous and prejudicial to the interest of revenue.

The officer charged 1% minimum tax under section 113 of the Ordinance, by treating the goods as outside the scope of fast moving consumer goods (FMCG). The department relied on the amended of Finance Act, 2017's definition of FMCG (excluding durable goods) to deny the reduced rate of 0.2%.

Being aggrieved, the taxpayer filed appeal before CIRA and then at ATIR, both decided the matter against the taxpayer.

Appellant Arguments

The taxpayer argued that:

- Table glassware is a consumer goods sold in retail as per daily demand, hence falls within FMCG definition applicable in TY 2015.
- Finance Act 2017's amendment ("excluding durable goods") cannot apply retrospectively to TY 2015.
- Distributors of glassware should be treated on par with distributors of other consumer goods (e.g., electronics) who enjoy the 0.2% rate.
- Higher taxation amounts to discrimination (Article 25 of the Constitution) and violates fiscal equity

Department Arguments

The department argued that:

- Glassware, though consumer goods, are "durable items" and thus excluded from FMCG as per Finance Act, 2017's amendment.
- The amendment should be given retrospective effect, denying taxpayer the reduced rate.
- Therefore, the standard 1% rate is lawfully applicable.

Decision

The LHC held that:

Each tax year is a separate unit; Finance Act, 2017's amendment cannot be applied to TY 2015. As settled in case titled Fawad Ahmad Mukhtar and others vs Commissioner Inland Revenue (Zone-II), Regional Tax Office, Multan and another (2022 PTD 454), it is a fundamental principle that each tax year is a separate unit of account and taxation, therefore, the definition of "FMCG" will apply as it stood in tax year 2015 prior to introduction of subsequent definitions which, of course, do not carry retrospective effect.

Before Finance Act, 2017, table glassware qualifies as consumer goods and thus falls within FMCG. Accordingly, distributors of table glassware are entitled to the 0.2% reduced rate of turnover tax.

No rational distinction exists between table glassware and electronic appliances that would justify placing a higher tax burden on distributors of glassware while giving preferential treatment to electronics distributors. The principle of fiscal neutrality, recognized in both domestic and international taxation jurisprudence, dictates that goods or services serving similar economic functions should not be taxed differently without a justified legal or economic reason. Imposing higher tax than that applied to distributors of electronics is discriminatory, violates Article 25 (equality before law), and offends fiscal equity. Tax authorities must ensure uniform tax treatment for comparable consumer goods/durables

3. COMMISSIONER POSSESSES JURISDICTION TO RECTIFY MISTAKES IN DEEMED ASSESSMENT ORDERS UNDER THE INCOME TAX ORDINANCE, 2001

(2025) 132 TAX 89 = 2025 SLD 1393

SUPREME COURT OF PAKISTAN

COMMISSIONER INLAND REVENUE & OTHERS

VERSUS

M/S WHITE GOLD STEEL MILLS & OTHERS

APPLICABLE LAW: 120(1), 114(6), 122(3), and 221(1) of the Ordinance.

Brief Facts

The issue stemmed from the treatment of "deemed assessment orders" under Section 120 of the Income Tax Ordinance, 2001. This provision deems a taxpayer's filed return to be an assessment order issued by the Commissioner. The Lahore High Court and Islamabad High Court had previously ruled that the Commissioner lacked jurisdiction under Section 221(1) to rectify mistakes in such deemed orders, as they were not actual "orders passed by him" but were created by a legal fiction based on the taxpayer's own document.

Department Arguments

The Appellant (department) argued that the deeming provisions of Section 120(1) were comprehensive. It emphasized that the law states a deemed assessment order is to be treated as an order issued by the Commissioner **"for all purposes of this Ordinance."** Consequently, such an order must fall within the scope of Section 221(1), which grants the Commissioner the power to rectify "any order passed by him." The department contended that the High Courts had erroneously limited the effect of the legal fiction, which should be applied in its entirety, including its inevitable corollaries. It was further argued that the framework for revised returns under Sections 114(6) and 122(3) creates a deemed *amended* assessment order, reinforcing the continuity of the Commissioner's jurisdiction over the original deemed order.

Taxpayer Arguments

The Respondents (taxpayers) contended that a deemed assessment order was fundamentally different from an order actually "passed" by the Commissioner. They argued that the term "passed" in Section 221(1) presupposes an active application of mind by the tax authority, which is ipso facto absent in a self-assessed, deemed order. The mistake in a deemed order, they asserted, is factually a mistake of the taxpayer in their own return, not a mistake of the Commissioner. Therefore, the jurisdiction to rectify under Section 221(1) could not be invoked. The taxpayers supported the High Courts' reasoning that if the legislature intended to include deemed orders, it would have used specific language, as it did in other sections like 122(1).

Decision

The Supreme Court held that:

- The **deeming provisions in Section 120(1) create two distinct legal fictions**: first, that the Commissioner is deemed to have *made an assessment* (implying application of mind), and second, that the return is deemed to *be an assessment order*.
- Applying the principle of statutory interpretation for legal fictions, all **"inevitable corollaries"** of this deeming must be given effect. One such corollary is that the deemed order is an order "passed by" the Commissioner for the purpose of Section 221(1).
- The Court ruled that the High Courts erred by conflating the two fictions and failing to recognize the deemed application of mind by the Commissioner.
- The framework for revised returns under Section 122(3) was found to **support, not negate**, this conclusion, as it creates a subsequent deemed *amended* assessment order, maintaining the Commissioner's jurisdiction over the process.
- Consequently, the Commissioner **does possess the jurisdiction** to rectify mistakes apparent from the record in a deemed assessment order under Section 120.

4. UNIVERSITY TEACHERS RETAIN TAX REBATE STATUS DESPITE HOLDING ADMINISTRATIVE POSTS

(2025) 132 TAX 72 = 2025 PTD 945

PESHAWAR HIGH COURT

DR. SHAH ALAM KHAN, PROFESSOR & OTHERS

VERSUS

VICE CHANCELLOR, UNIVERSITY OF AGRICULTURE, PESHAWAR & OTHERS

APPLICABLE LAW:

- Clause (2) in Part-III of the Second Schedule to the Ordinance.
- Khyber Pakhtunkhwa Universities Act, 2012 (Sections 2(n), 2(y), and Chapter-III).

Brief Facts

The petitioners were full-time professors at the University of Agriculture, Peshawar, who were assigned additional administrative duties as Deans, Chairpersons, or Directors. They had historically received a 40% tax rebate on their salary income, a concession available to full-time teachers under the Income Tax Ordinance, 2001. The Federal Board of Revenue (FBR) subsequently withdrew Rs. 12.69 million from the University's account, contending that the rebate was not applicable to faculty performing administrative duties. The University, acting on FBR's directives and a Public Accounts Committee (PAC) observation, then initiated recovery proceedings against the petitioners to reclaim the rebate amount.

FBR / University Arguments

The Respondents (FBR and University administration) argued that the petitioners, by virtue of holding administrative posts such as Dean or Chairperson, ceased to be "full time teachers" as intended by the tax rebate clause. They relied on a clarificatory circular (Circular No. 6 of 213) which stated that a full-time teacher means a person "purely for teaching and not performing any administrative or managerial jobs e.g. principals, headmasters, directors, vice-chancellors, chairmen, controllers etc." The University contended that it was compelled to recover the funds after the amount was forcibly withdrawn by the FBR and under pressure from the PAC audit observations.

Petitioners / Teachers Arguments

The Petitioners (the university teachers) argued that their primary and substantive status remained that of full-time teachers. The administrative roles were merely **additional, temporary assignments** for which they received a small honorarium, and they continued to perform their core teaching and research duties. They asserted that they were appointed as teachers and would retire as teachers. They contended that the FBR's interpretation was overly narrow and violated the statutory scheme of the Universities Act, 2012, which distinguishes between "Officers" and "Teachers" but allows for teachers to hold additional administrative charges. They invoked the principle that ambiguous tax laws must be interpreted in favor of the taxpayer.

Decision

The Peshawar High Court held that:

- The **primary and substantive designation** of the petitioners was as full-time teachers (Professors, Associate Professors). Holding an additional administrative charge **did not alter their fundamental status** as educators.
- The Court applied the principle of **strict construction of taxation statutes**, ruling that any ambiguity in a taxing provision must be resolved in favor of the citizen/taxpayer.
- The FBR's circular, which sought to exclude all teachers with any administrative duties, was found to be **overly broad and inconsistent** with the purpose of the rebate, which is to benefit academics.
- The actions of the FBR (withdrawing funds) and the University (initiating recovery) were declared **without lawful authority** and quashed.
- The Court ordered that any amount already deducted from the petitioners' salaries be **refunded** to them.

5. AUDIT EXEMPTION UNDER CLAUSE (105A) CALCULATED FROM AUDIT YEAR, NOT COMPLETION DATE, AND APPLIES PROSPECTIVELY

(2025) 132 TAX 27 = 2025 SLD 1623

ISLAMABAD HIGH COURT

PAKISTAN TELECOMMUNICATION COMPANY LIMITED (PTCL)

VERSUS

COMMISSIONER INLAND REVENUE AUDIT-II, ETC.

APPLICABLE LAW:

- Clause (105A) of Part IV of the Second Schedule of the Ordinance (inserted by Finance Act, 2022).
- Section 74, Income Tax Ordinance, 2001 (Definition of "Tax Year").
- Principles of Prospective vs. Retrospective Application of Fiscal Statutes.

Brief Facts

The petitioner, PTCL, received an audit notice dated 18.01.2022 under Section 177 of the Income Tax Ordinance, 2001 for Tax Year 2018. PTCL challenged this notice, arguing it was barred by the newly inserted **Clause (105A).** This clause, a beneficial provision, exempts a taxpayer from audit under Sections 177 and 214C if their income tax affairs were audited in "any of the preceding four tax years." PTCL's last audit was for **Tax Year 2014**, which was **completed on 30.06.2019**. PTCL contended that the four-year exemption period should be calculated from the date of the audit's *completion* (2019), thus barring a new audit until 2023. It also argued that the beneficial amendment should be applied retrospectively.

Petitioner's (PTCL) Arguments

PTCL argued that the impugned audit notice was **illegal, without jurisdiction, and violative of constitutional rights** (Articles 4 & 10-A). Its primary contention was that **Clause (105A) is beneficial legislation** and must be interpreted liberally in favor of the taxpayer. PTCL insisted that the four-year exemption period should run from the **date the previous audit concluded (June 2019),** not from the tax year that was audited (2014). On this basis, an audit for 2018 would be barred by 2023. PTCL further argued that the amendment, being beneficial, should be given **retrospective effect** to invalidate the notice issued in January 2022, even though the law was enacted later.

Respondent's (FBR) Arguments

- That the Petitioner's audit was conducted in the Tax Year 2014, which falls beyond the scope and ambit of Clause 105A; that the Petitioner's reliance on Clause 105A is based on an unsustainable and erroneous interpretation of law
- That the Impugned Notice is not violative of law and is based on sound legal reasoning, which was already furnished to the Petitioner prior to its audit selection; that the Impugned Notice has been issued in accordance with the established legal position that ongoing audit proceedings, commenced in accordance with law, would not be affected by the enactment of Clause 105A
- That Clause 105A was enacted with effect from 01.07.2022, which constitutes the Tax Year 2023; that upon plain reading of Clause 105A, it is evident that exemption thereunder would apply if audit proceedings were conducted for the Tax Years 2020, 2021, 2019 or 2018, however, the Petitioner's last audit was conducted for the Tax Year, 2014, hence, it does not fall within the scope of Clause 105A.

Decision

The Islamabad High Court dismissed the petition, holding:

- The new amendment referred to "preceding four tax years" and it means that the audit of a particular tax year and not the date or year in which the audit is completed. Therefore, the Petitioner's selection of audit for the tax year 2018 (notwithstanding its completion in the year 2019) would be of the tax year 2018 and not of the tax year 2019 to claim any benefit of Clause 105A ibid.
- It is immaterial when the audit is completed as it will remain an audit for a particular tax year and it is only that tax year (2014 in this matter) which is relevant for calculating the period of concession under Clause 105A ibid.
- The finalization of the audit in a particular tax year is not at all relevant nor is it provided in Clause 105A. The Circular dated 21.07.2022 issued by FBR, whereby an example is given that if an audit of a taxpayer for the tax year 2017 has been finalized in the tax year 2022, then the said taxpayer can only be audited again after four tax years i.e. in the tax year 2027, has been

discarded by the Sindh High Court in Constitution Petition No.D-6280 of 2024 vide order dated 20.01.2025, as it conflicts with the main provision of law

- Petitioner reflects that the audit for the tax year 2014 was conducted and concluded in the year 2019, meaning thereby that no audit/proceedings under Section 177 (1) were conducted for any of the preceding four tax years as per the mandate of Section 105A of the Ordinance of 2001, hence, the Petitioner cannot claim the benefit provided under the Finance Act, 2022
- As far as the contention raised by the Petitioner's counsel that the new amendment has a retrospective effect is concerned, it is to be mentioned here that in the absence of any indication of its retrospective operation, it must not be given retrospective effect. Even otherwise, the enactments relating to fiscal statutes will be interpreted to apply prospectively, rather than retrospectively.

6. TAX CREDIT APPROVALS FOR NOT FORPROFIT ORGANISATIONS: AMENDED VALIDITY PERIODS APPLY PROSPECTIVELY, NOT RETROSPECTIVELY

(2025) 131 TAX 673 = 2025 PTD 1072

SUPREME COURT OF PAKISTAN

COMMISSIONER INLAND REVENUE, CORPORATE ZONE, RTO, FAISALABAD

VERSUS

M/S NATIONAL PUBLIC WELFARE SOCIETY, FAISALABAD AND ANOTHER

APPLICABLE LAW:

- Sections 2(36), 100C, 122(5A), 122(9), 237(1) of the Ordinance.
- Rules 212, 214, 217 of the Income Tax Rules, 2002.
- SRO No. 754(I)/2016 dated 15.08.2016.

Brief Facts

The respondent, a welfare society, had obtained approval under Section 2(36) of the Ordinance in the year **2007**. This approval was crucial for it to claim a tax credit under Section 100C. The society filed its return for **Tax Year 2019** in December 2019. The tax department (Petitioner) issued a show-cause notice, contending that the society's 2007 approval was no longer valid. The department relied on **SRO 754(I)/2016**, which amended Rule 214 of the Income Tax Rules to limit the validity of such approvals to **three years**. The department argued this amendment applied retrospectively, meaning the 2007 approval had effectively expired in 2010 and was invalid for the 2019 tax year.

Department Arguments

The Petitioner (tax department) argued that the **SRO 754(I)/2016** imposed a three-year validity period on all approvals granted under Section 2(36). It contended that this new rule applied to *all* existing approvals, regardless of when they were issued. Therefore, the respondent's approval from **2007** was deemed to have expired **three years after the SRO's introduction in 2016** or, as per its interpretation, was invalid for the 2019 tax year as it was issued over a decade earlier. The department asserted that the taxpayer was not entitled to the tax credit for tax year 2019 due to the lack of a valid, current approval.

Taxpayer Arguments

The Respondent (welfare society) argued that the **SRO 754(I)/2016** could not be applied **retrospectively**. Taxpayer contended that the amended Rule 214, which introduced the three-year validity, came into force on **15.08.2016**. The phrase "subsequent three years" in the amended rule indicated a **prospective application** from the date of the SRO. Therefore, its 2007 approval remained valid until **August 2019**, which covered the entire Tax Year 2019 (which ended on June 30, 2019). Respondent maintained that applying the new rule to invalidate an approval granted nearly a decade earlier was unfair and against established principles of tax law.

Decision

The Supreme Court held that:

- The **SRO 754(I)/2016 amending Rule 214** has **prospective application only**. The phrase "subsequent three years" clearly

indicates it applies to the period following the SRO's enactment.

- There was **no express language** in the SRO or the parent statute mandating its **retrospective application** to approvals granted years in advance.
- It is a **settled principle of fiscal law** that statutes and subordinate legislation (like SROs) that create a burden or take away a benefit **cannot be applied retrospectively** unless expressly provided for.
- Consequently, the respondent's approval granted in **2007** remained valid until **August 2019**, covering the **Tax Year 2019** in its entirety. The taxpayer was therefore lawfully entitled to claim the tax credit.
- The Court dismissed the department's petition and refused leave to appeal, upholding the decisions of the Appellate Tribunal and the Lahore High Court.

Sales Tax Act, 1990

A. Notifications

1. S.R.O. 1217(I)/2025 dated July 8, 2025

The above said SRO notifies that the Federal Government through its decision dated July 4, 2025, has reduced sales tax on the import and supply of up to 500,000 metric tons of white crystalline sugar from 18% to 0.25% and exempted the 3% minimum value-added tax under the Twelfth Schedule of the Sales Tax Act, 1990.

The concession applies to imports of sugar made by the Trading Corporation of Pakistan (TCP) or the private sector, subject to:

1. Import being managed by the Commerce Division through TCP or private sector under specified conditions, quotas, and requirements.
2. Quality assurance of imported sugar by an international inspection firm arranged by the Commerce Division.
3. The facility being valid only for imports made up to September 30, 2025.

B. Reported Decisions

1. RECTIFICATION POWERS MUST NOT BE USED TO SUBSTANTIALLY REVISIT FINAL ORDERS.

2025 TAX 1

SUPREME COURT OF PAKISTAN

M/S CHAUDHARY STEEL FURNACE.

VS

THE COMMISSIONER INLAND REVENUE

Applicable provisions: Section 57 to the Sales Tax Act, 1990 (the Act)

Brief facts:

In the instant case, M/s Chaudhary Steel Furnace was issued with a show cause notice which was culminated in Order-in-Original. The appeal before the Commissioner (Appeals) was filed which was dismissed. In further appeal, the Tribunal set aside both orders below and directed that the FIR registered against the petitioner be quashed.

The Department filed Sales Tax Reference (STR) wherein the Lahore High Court through its judgment answered two legal questions in favour of the Department but declined to address the third since the Tribunal had not recorded findings on it.

Following this, the petitioner initially filed a Civil Petition for Leave to Appeal (CPLA) against the High Court's order which was later withdrawn. Concurrently, M/s Chaudhary Steel Furnace filed Miscellaneous Application before the Tribunal seeking fixation/rectification under Section 57 of the ST Act of its earlier order to address an overlooked issue regarding the determination of liability under the normal tax regime. Considering this contention, the Tribunal modified its order in favor of the petitioner and vacated both the Order-in-Original and the first appellate order.

The respondent-department then challenged such modified order by filing STR and argued that the Tribunal had exceeded its rectification jurisdiction which was accepted by a Division Bench of the Lahore High Court and decided in favor of the department.

However, being aggrieved the petitioner filed this instant Civil Petition for Leave to Appeal before the Supreme Court.

Decision:

The Supreme Court dismissed the petitioner’s CPLA and upheld the High Court’s decision.

The Court clarified that the High Court's order in STR No. 11/2014 was not a remand order and did not revive the appeal previously decided by the Tribunal. It emphasized that no request for a remand was made in the department's reference nor was it raised when the petitioner withdrew their earlier CPLA.

The Court emphasized that Section 57 of the Sales Tax Act permits only rectification

of a mistake apparent from the record and does not allow substantive reconsideration or adjudication of fresh issues. By modifying its earlier order on merits, the Tribunal misused its rectification powers and in effect acted as an appellate authority of its own decision, which is impermissible in law. Reliance was placed on *CIT v. Abdul Ghani (2007 PTD 967)* in support.

The petition was accordingly dismissed and the Court reaffirmed that rectification jurisdiction is strictly limited and cannot be employed to reopen concluded matters.

2. EVIDENCE FROM SEARCHES WITHOUT WITNESS SIGNATURES IS INADMISSIBLE IN TAX PROCEEDINGS.

2025 PTD 1095

LAHORE HIGH COURT

THE COMMISSIONER INLAND REVENUE

VS

M/S SIKA PAINT INDUSTRIES (PVT.) LTD.

Applicable provisions: 38-A, 40, 40(2), 40-A, and 47(5) to the ST Act, 1990.

Brief Facts:

In the instant case, a show cause notice was issued to the respondent-taxpayer alleged for willful / deliberate evasion of sales tax found on the basis of contravention report during the period from financial years 2007 to 2014. The SCN culminated in passing of assessment order.

Being aggrieved, the registered person went into appeal before the Commissioner (Appeals) who upheld the action of the assessing officer however, on the issue of limitation the principal amount of sales tax along with corresponding default surcharge and penalty relating to the tax period up to March 2009 was vacated. Being aggrieved the registered person preferred second appeal before the Appellate Tribunal who annulled the entire assessment on the ground that the raid and seizure of documents were illegal since no witnesses were present or signed the recovery memo violating Sections 102–103 of Code of Criminal Procedure (Cr.P.C) read with Section 40 of the ST Act.

The Department later filed sales tax reference with the question of law whether absence of witnesses in the recovery memo was merely a procedural lapse or a substantive illegality.

Decision:

The Court decided the reference application in favour of the registered person and against the respondent department and held that the non-appearance of two witnesses on the recovery memo, as required under Sections 102 and 103 of the Code of Criminal Procedure (Cr.P.C.), was not a mere procedural or technical infirmity but a fatal defect that rendered the entire search and seizure unlawful.

The Court observed that Section 40 of the ST Act makes compliance with the Cr.P.C. mandatory which requires searches to be conducted in the presence of two respectable local witnesses whose signatures must appear on the seizure memo. Since no such witnesses were associated during the raid conducted, the recovery memo could not be treated as valid evidence.

The Court emphasized that illegality cannot be justified to counter another illegality, and tax authorities cannot rely on evidence obtained through unlawful means. It further noted that the case law cited by the department in case of Medora of London was distinguishable and not applicable.

Consequently, the Court answered the legal question in the affirmative and upheld the Appellate Tribunal's decision which annulled the assessment order.

Punjab Sales Tax on Services Act, 2012

A. Notifications:

1. **PRA/Orders.06/2021/846 dated July 10, 2025**

   Through this notification, PRA has made amendments to the rule 3 of the **Punjab Sales Tax on Services (Adjustment of Tax) Rules, 2012** with immediate effect. The rules now explicitly cover reduced rate services in addition to non-taxable and exempt services. Further, Input tax apportionment formula has been updated for cases where an input is used for:

   - Taxable services
   - Non-taxable services
   - Reduced rate services
   - Exempt services

   Following formula will be used for availing of input tax adjustment or deduction:

   Adjustable Input Tax= (Taxable Value / (Taxable Value + Non Taxable + Reduced Rate + Exempt Services)) * Total Input Tax.

2. **PRA/Orders.06/2021/845 dated July 10, 2025**

   Through this notification, PRA has made amendments to the Punjab Sales tax on Services (Withholding) Rules, 2015 (PSTWH Rules) with immediate effect by introducing Rule 5A regarding withholding by companies in the following manner:

   - Telecommunication, banking, and insurance companies: On receipt of taxable services (other than advertisement) from an active taxpayer service provider company they shall withhold 80% of the tax while the remaining 20% will be deposited by the service provider company.
   - Other companies: On receipt of taxable services (other than advertisement) from an active taxpayer service provider company they shall withhold 20% of the tax while the remaining 80% will be deposited by the service provider company.

   It is notable that the previous non-applicability of STWH on payments made to registered service provider companies falling in ATL was according to exclusion provided under Rule 3 of the PSTWH Rules as per which the provisions of PSTWH Rules were not applicable on payments against services provided by registered persons in certain specified sectors and all companies in general being the active taxpayers.

   Whereas, Rule 5 provides for applicability of 100% withholding of the sales tax charged in case of services provided by registered services providers which if read with above Rule 3, means that 100% STWH is applicable in cases other than companies falling in ATL.

   Although, the new Rule 5a to the PSTWH Rules has been introduced with a non obstante clause overriding the provisions of Rule 5, however, it has not subverted the provisions of Rule 3 providing for non-applicability of the provisions of PSTWH Rules on services provided by companies falling in ATL. Hence, in the light of such conflicting provisions in the PSTWH Rules, there is an apparent grey area regarding applicability of the PSTWH Rules in case of services provided by active taxpayer companies in accordance with the newly inserted provisions of Rule 5a which needs to be addressed by the PRA.

B. Reported Decisions:

3. TIME FRAME FOR CONCLUSION OF PROCEEDINGS BEFORE COMMISSIONER APPEALS IS DIRECTORY AND NOT MANDATORY.

2025 TAX 7

LAHORE HIGH COURT

M/S ASTRAL CONSTRUCTIONS (PRIVATE) LIMITED

VS

THE PROVINCE OF PUNJAB

Applicable provisions: 2(30, 33, 35), 3, 11, 25, 65 and 67A of Punjab Sales Tax on Services Act, 2012.

Brief Facts:

M/s Astral Constructions (Pvt.) Limited entered into an agreement with DHA Lahore for construction of a swimming pool which constitutes a taxable service as per Entry 14 of the Second Schedule to the Punjab Sales Tax on Services Act, 2012. The company claimed that it was based in Islamabad and therefore a non-resident under the Act in which case liability to pay sales tax would shift to the recipient.

It also raised objections regarding the delay in disposal of its appeal by the Commissioner (Appeals) contended that the statutory period of 180 days for deciding appeals was mandatory and further argued that no sales tax could be recovered since the company was not registered with PRA at the relevant time. Reliance was placed on *S.K. Steel Casting (2019 PTD 1493)*.

The Appellate Tribunal however, upheld the tax demand and treated the company as a resident service provider with liability to pay sales tax. The company come up with sales tax reference originating from the decision of Appellate Tribunal.

Decision:

The Lahore High Court dismissed the reference application and upheld the Appellate Tribunal's order and sustained sale tax liability on the following grounds:

- that the company maintained a site office at DHA Lahore, which constituted a "place of business" under section 2(30) of the PSTS Act thereby making it a resident service provider under section 2(35) of the PSTS Act. Accordingly, its services were taxable under section 3(1), and liability to pay sales tax rested with it as the provider under section 11(1) of the PSTS Act.
- that the 180-day period for disposal of appeals under section 65(7) of the PSTS Act is directory and not mandatory particularly where no objection was raised during proceedings.
- On the registration issue, it held that non-registration does not absolve a person from payment of tax liability in light of section 25 and its Explanation which treats a person liable to registration as a "registered person" for enforcement purposes. The case of S.K. Steel Casting was distinguished as it related to the ST Act and not the Punjab statute.

4. LEGAL PRACTITIONERS DO NOT FALL WITHIN AMBIT OF ENTRY 52 OF SECOND SCHEDULE TO THE PUNJAB SALES TAX ON SERVICES ACT, 2012

2025 TAX 111

LAHORE HIGH COURT

LAHORE HIGH COURT BAR ASSOCIATION AND OTHERS

VS

PROVINCE OF PUNJAB AND OTHERS

Applicable provisions: Entry 52 of the Second Schedule of Punjab Sales Tax on Services Act, 2012.

Brief Facts:

The Lahore High Court Bar Association, Lahore Tax Bar Association, and Lahore Bar Association filed writ petitions and challenged the levy of sales tax on legal practitioners under Entry 52 of the Second Schedule to the Punjab Sales Tax on Services Act, 2012.

They contended that "legal practitioners" or "advocates" were not specified in column one of Entry 52, which only listed accountants, auditors, actuaries, tax consultants, and corporate law consultants. They argued that classification codes in column two including 9815.2000 for legal

practitioners, could not independently create tax liability unless the corresponding category was included in column one.

PRA opposed and submitted that advocates when rendering consultancy services were covered by Entry 52 through the combined reading of column one and column two, and therefore liable to sales tax.

Decision:

The Lahore High Court accepted the petitions and held that legal practitioners/advocates do not fall within Entry 52 and thereby are not liable to pay sales tax.

It was observed that the omission of legal practitioners from column one was deliberate and classification codes in column two could not, by themselves extend tax liability to a service provider not expressly mentioned in column one.

The Court further held that "corporate law consultants" and "legal practitioners" are separate categories; advocates regulated under the Legal Practitioners and Bar Councils Act, 1973, cannot be brought into the scope of "corporate law consultants." Referring to settled principles that charging provisions in fiscal statutes must be strictly construed, the Court ruled that the legislature did not intend to impose sales tax on legal practitioners.

Sindh Sales Tax on Services Act, 2011

A. Notifications:

1. SRB-3-4/40/2025 Dated July 16, 2025

Through this notification, the Sindh Revenue Board (SRB) has amended its earlier notification no. SRB-3-4/10/2011 dated October 18, 2011 and has revised the list of services subject to quarterly return filing under the Sindh Sales Tax regime.

Under the revised framework quarterly filing will now also apply to the Providers of cosmetic dental services under **Central Product Classification (CPC)** Code 93123 besides exempt services, if any.

The references of Pakistan Customs Tariff (PCT) codes of the respective services covered under said notification have also been replaced with the CPC codes applicable to such services in order to align same with the amendments brought through Sindh Finance Act, 2025.

2. SRB-3-4/41/2025 Dated July 16, 2025

Through this notification, SRB has made amendments in the Sindh Sales Tax on Services Rules, 2011 (SST Rules) whereby following are the key changes:

1. **Alignment with changes brought through Sindh Finance Act, 2025:**

   The references of PCT codes and related description of the services for which special procedure rules have been provided under the SST Rules (including, financial, insurance, shipping, franchise, IP, construction, etc.) are now substituted with the applicable CPC codes and related descriptions, in order to align same with the amendments brought through Sindh Finance Act, 2025. Also, any changes made through the Sindh Finance Act, 2025, in the applicable reduced rates or exemption threshold of a particular service, have also been incorporated in the rules, wherever occurring.

   Moreover, for service providers already registered according to older classifications (as of June 30, 2025), the SRB may itself update that provider's classification into the newly adopted coding framework without requiring the provider to make application for changes in particulars.

2. **E-payments and return filing process:** To streamline the e-payment and e-return filing process, the option for depositing tax through designated NBP/other banks has been omitted. Taxpayers are now required to make online payments through SRB's computerized system which will generate the CPR upon confirmation of payment by the bank.

3. **Option Mechanism Revamped:** Previously, Sindh Sales Tax (SST) on certain specified services was by default chargeable at reduced rate with no input tax admissibility.

   However, in case of following services, SRB had provided an option mechanism for charging SST at the standard rate of 15% instead of a reduced rate with admissibility of input tax.

   i. Franchise, intellectual property.
   ii. Construction.
   iii. Ready-mix concrete.
   iv. Transportation.

   The election was to be made by filing sector-specific option forms on SRB's web portal within the stipulated timelines.

   Now, by amending the rules, SRB has revamped the option mechanism in respect of above services whereby such services are now chargeable to SST by default at standard rate of 15% unless an option for application of reduced rate with no input tax admissibility, is filed on SRB's web portal within the stipulated timelines.

   However, persons who were already paying SST at a reduced rate prior to July 1, 2025, by not exercising the option to charge standard rate, shall be

deemed to have opted for reduced rate from July 2025 onwards.

The conditions for exercising the option remain largely consistent with previous rules as under:

- The option must be filed within 21 days of the commencement of a financial year.
- For first-time entrants, the option may be filed at least 14 days before commencement of activity.
- Once exercised, the option remains valid for the financial year and continues automatically until withdrawn (withdrawal requires filing at least 21 days before the start of a new financial year).

Contact Us

For more information you may contact

Atif Mufassir
Partner – National Leader Tax & Legal
Karachi Office
Email: amufassir@yousufadil.com

Zubair Abdul Sattar
Partner Tax & Legal
Karachi Office
Email: zsattar@yousufadil.com

Rana Usman Khan
Partner
Lahore Office
Email: rmukhan@yousufadil.com

Imran Ali Memon
Partner Tax & Legal
Karachi Office
Email: immemon@yousufadil.com

Arshad Mehmood
Senior Advisor Tax & Legal
Karachi Office
Email: amehmood@yousufadil.com

Sufian Habib
Executive Director Tax & Legal
Islamabad Office
Email: sufianhabib@yousufadil.com

Muhammad Shahzad Hussain
Partner Business Process Solutions
Karachi Office
Email: muhahussain@yousufadil.com

Our Offices

KARACHI
Cavish Court, A-35, Block 7 & 8
KCHSU, Shahrah-e-Faisal
Karachi - 75350, Pakistan

Phones: + 92 (21) 34546494-97
Fax: + 92 (21) 34541314
Email: sghazi@yousufadil.com

ISLAMABAD
#18-B/1
Chohan Mansion, G-8 Markaz
Islamabad, Pakistan

Phones: + 92 (51) 8350601,
+ 92 (51) 8734400-3
Fax: + 92 (42) 35440521
Email: shahzad@yousufadil.com

LAHORE
134-A, Abubakar Block New
Garden Town, Lahore, Pakistan

Phones: + 92 (42) 35440520
Fax: + 92 (42) 35440521
Email: rmukhan@yousufadil.com

MULTAN
4th Floor Mehr Fatima Tower,
Opp. High Court,
Multan Cantt, Multan, Pakistan

Phones: + 92 (61) 4571131-2
Fax: +92(61) 4571134
Email: rmukhan@yousufadil.com

About Yousuf Adil

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.

For more information, please visit our website at www.yousufadil.com