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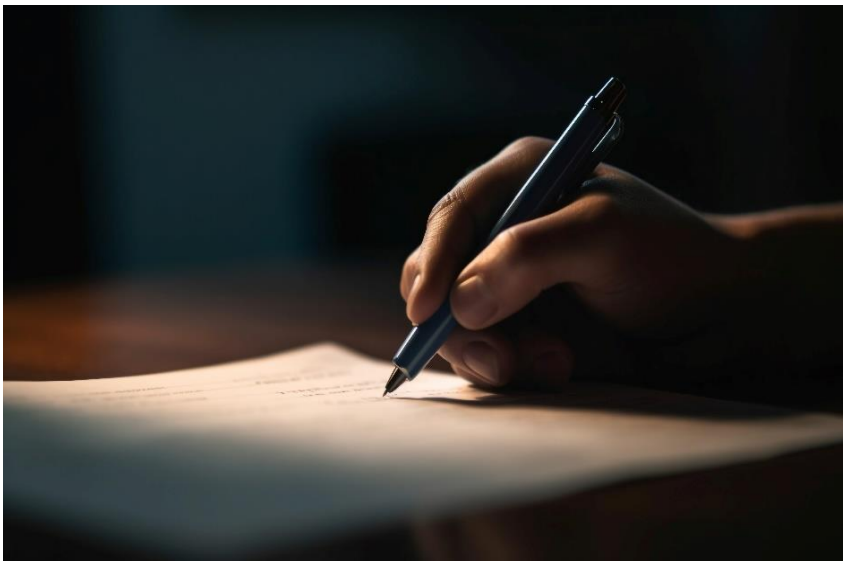
Tax Bulletin

June 2025

Tax

Foreword



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

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Karachi
June 26, 2025

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Income Tax Ordinance, 2001

A. Reported Decisions

1. THE TAX DEPARTMENT MUST POSSESS OBJECTIVE REASONS OR INFORMATION JUSTIFYING THE BELIEF OF A WITHHOLDING DEFAULT

2025 PTD 574 = (2025) 131 TAX 386 = 2025 SCMR 671

SUPREME COURT OF PAKISTAN

CHAWALA FOOTWEAR, LAHORE

VERSUS

COMMISSIONER INLAND REVENUE, LAHORE AND OTHERS

APPLICABLE SECTIONS:
133,149,150,152,153,153(7),155,156, 160,161,161(2),205 OF THE INCOME TAX ORDINANCE, 2001,
RULE 43, 44(4) OF INCOME TAX RULES, 2002

Brief Facts:

The Appellant, an Association of Persons (AOP) engaged in manufacturing and selling plastic footwear. The Taxation Officer initiated proceedings on detecting discrepancies in the appellant's withholding obligations and passed the Order under section 161 of the Ordinance. The CIRA partially confirmed and partially deleted the charges in its order, leading to cross-appeals before the ATIR. The ATIR annulled the entire demand on the ground that the tax department had not identified specific payees, thereby rendering recovery under Section 161(2) impractical.

The tax department challenged the ATIR's order through a reference to the LHC, which reversed the ATIR's decision, relying on the precedent in Bilz (Private) Limited vs DCIT (2002 PTD 1) and held that once a payment subject to withholding is established, the burden shifts to the taxpayer to show that no default occurred.

Being aggrieved from the above decision, the Appellant filed appeal before SC.

Decision:

SC dismissed the appeal and held that:

The power to initiate proceedings under Section 161 is not unfettered, and the tax department must possess objective reasons or information justifying the belief of a withholding default.

Upon examining the notice issued to the appellant, the SC found several key elements: the names of the persons from whom the purchases were made, a thorough comparison between the purchases declared and those verified; and a breakdown of the remaining purchases that were subject to tax. Furthermore, the notice highlights discrepancies in the valuation of imports and specifies the categories under which the tax was applicable. This indicates that there was careful consideration of any failures to deduct tax, along with an assessment of the underlying bases and amounts involved. Therefore, it is clear that the notice was not simply a fishing expedition and met the threshold of objectiveness required under the MCB precedent (2021 SCMR 1325). Consequently, the demand created by the tax department was held to be valid and in accordance with the law.

2. MEMBERSHIP FEE FROM MEMBERS USED FOR THE MUTUAL BENEFIT OF THE MEMBERS IS NOT SUBJECT TO TAX UNDER THE DOCTRINE OF MUTUALITY

2025 PTD 650

PESHAWAR HIGH COURT

COMMISSIONER OF INLAND REVENUE, REGIONAL TAX OFFICE, PESHAWAR

VERSUS

M/S SWAT CERAMICS COMPANY (PVT) LTD, SHAIDU NOWSHERA

APPLICABLE SECTIONS:
133,133(5),153,153(1),153(1)(C) OF THE INCOME TAX ORDINANCE, 2001
22 OF INCOME TAX ACT, 1922

Brief Facts:

The Respondent paid membership fee to DHA Country Golf Club, without any tax deduction under section 153 of the Ordinance, on the contention that since the nature of the payment of fee paid on account of acquiring the DHA Club membership does not fall under any category of payment specified in Section 153(1) of the Ordinance, therefore, it was not required to deduct any tax. The Tax department, however, insists that such payment falls within the ambit of 153(1)(c) of the Ordinance being a payment made for / against services.

Accordingly, the tax department passed the order and appellant file appeal before CIRA, who decided the matter in favour of department.

Being aggrieved the appellant file appeal before ATIR, who decided the issue in favour of the taxpayer. The department filed a reference before PHC against ATIR's order.

Decision:

PHC decided the matter in favour of taxpayer, by considering the doctrine of mutuality as laid down in earlier judgments, particularly:

- Karachi Golf Club (Pvt) Ltd v. Province of Sindh (2021 PTD 558)
- Sindh Club v. CIT, South Zone, Karachi (ITR 445/1990, 2021 PTD 658)

It has been held by the SHC in above judgements that the surplus accruing to a member's club from amounts received from its members in respect of activities / services provided to them could not be considered to be income / profit of the said Club, as due to doctrine of mutuality, no one could make a profit out of oneself. Therefore, the amounts received by the members' club by providing temporary accommodation to its members were exempt from ambit of income tax under Section 10 of the Income Tax Act, 1922.

These judgments confirmed that where funds are collected by a members' club from its members and used for the mutual benefit of the members, such income is not subject to tax under the doctrine of mutuality. Since no one can earn income from himself, the income is not treated as income under tax law.

In view of the above, PHC held that the payment of membership fee by the respondent was covered under the doctrine of mutuality and did not constitute consideration for services under Section 153(1)(c) of the Ordinance.

3. SECTION 100BA IS PROSPECTIVE, APPLICABLE ONLY TO TAX YEAR 2024 ONWARDS

2025 PLJ 1 = 2025 PTD 530

LAHORE HIGH COURT

DEFENCE HOUSING AUTHORITY

VERSUS

FEDERAL BOARD OF REVENUE AND OTHERS

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

APPLICABLE SECTIONS: 100,100BA, 236C, 236K, 10the SCHEDULE (RULE 1A) OF THE INCOM TAX ORDINANCE, 2001

Brief Facts:

- The petitioner, a statutory body engaged in real estate development, challenged the retrospective application of Rule 1A of the Tenth Schedule to the Ordinance, inserted through the Finance Act, 2024.
- The petitioner filed tax returns for Tax Year 2023 beyond due dates, for which a penalty for late filing was paid.
- The tax department began collecting enhanced rates of advance tax under Sections 236C and 236K on petitioner's real estate transactions based on the newly inserted Rule 1A, treating the petitioner as a "late filer".

Petitioner argued that

- The new rule imposes penalties retrospectively on past and closed

transaction, which is unconstitutional and not clearly provided for in the statute.

- The Finance Act, 2024, and Section 100BA do not state that provisions apply to past tax years or returns already filed.
- Transactions and tax filings for earlier years were already concluded; retrospectively applying higher rates violates settled constitutional principles.
- Imposing new liabilities on past conduct where the law did not impose such burden is impermissible.
- The penalty for late filing in earlier years was paid, and those filings were accepted therefore, the matter is past and closed.

The tax department argued that:

- Section 100BA(2) gives overriding effect to the Tenth Schedule, implying it can be applied retroactively.
- The proviso to Rule 1A applies enhanced rates to persons, who did not file returns on time in the past three years, even if they are currently on the active taxpayers list.
- The purpose of the law is to incentivize timely compliance and penalize habitual late filers.

Decision:

LHC decided the matter in favour of petitioner and held that:

- Section 100BA is prospective, applicable only to Tax Year 2024 onwards. On a proper construction of the proviso to Rule 1A, it cannot be said that the legislature in categorical terms expressed its intention to apply it to returns filed in the past three years to make the taxpayers who were in default liable for tax on the rates mentioned in the Tenth Schedule.
- Rule 1A is not a charging provision and only specifies rates, and its proviso cannot override the main statute (Section 100BA).
- The proviso is poorly drafted, vague, and does not clearly impose penalty for non-filing in the last three years. Ambiguous tax provisions must be interpreted in favor of the taxpayer.
- FBR was advised to constitute expert bodies to vet legislation and improve legal drafting to reduce confusion and litigation.

4. PROCEEDINGS UNDER SECTION 122(5) CAN ONLY BE FORMALLY INITIATED AFTER FINALIZATION OF PROCEEDINGS UNDER SECTION 111

2025 PLJ 14 = 2025 PTD 653

LAHORE HIGH COURT

FAISAL AHMAD AND 2 OTHERS

VERSUS

FEDERAL BOARD OF REVENUE THROUGH CHAIRMAN AND 4 OTHERS

APPLICABLE SECTIONS:
111,122,122(5),122(9) OF THE INCOM TAX ORDINANCE, 2001

Brief Facts:

Petitioners challenged notices issued under Sections 111 and 122 of the Ordinance for Tax Years 2017 and 2018, questioning the legality of simultaneous issuance of both notices.

Petitioner argued that

- Under the law, proceedings under Section 111 (relating to unexplained income/assets) must be concluded first before Section 122(5) (amendment of assessment) can be invoked.
- Section 122(5) requires "definite information", which can only be derived from a final order under Section 111.
- The petitioners relied on the Supreme Court judgment in Commissioner Inland Revenue v. Millat Tractors Ltd (2024 SCMR 700).

Decision:

LHC dismissed the petition and referred extensively to the Millat Tractors Ltd judgment, highlighting that:

- Simultaneous issuance of notices under Sections 111 and 122(9) is legally permissible.
- However, proceedings under Section 122(5) can only be formally initiated after finalization of proceedings under Section 111, and an opinion is formed by the Commissioner, so as to constitute definite information, as is required under Section 122(5) of the Ordinance,
- If no adverse opinion is formed under Section 111, both notices lapse and become legally ineffective.
- The LHC accepted the undertaking of the FBR counsel to comply with this legal framework.

Therefore, the LHC declined to interfere, finding no illegality in the issuance of notices based on the assurance that Section 111 proceedings would be concluded first.

5. SELECTION FOR AUDIT UNDER SECTION 177 IS INDEPENDENT OF REASSESSMENT UNDER SECTION 122(5A)

2025 PTD 502

LAHORE HIGH COURT

HONDA ATLAS CARS (PAKISTAN) LIMITED

VERSUS

FEDERAL BOARD OF REVENUE AND OTHERS

APPLICABLE SECTIONS:
122(5A),122(9),177,177(7) OF THE INCOM TAX ORDINANCE, 2001

Brief Facts:

Petitioners challenged notices issued under Section 177 selecting its tax returns for audit for multiple years (2017–2020). For tax years 2017 to 2019, assessment orders under Section 122(5A) had already been passed and were pending in appeal before appellate forums.

Petitioners argued:

- Parallel audit was unjustified when reassessment proceedings were pending.
- Audit selection for multiple years violated Section 177.
- The selection of the petitioner for audit was part of sectoral audit initiated under the directives issued by Federal Board of Revenue which action was declared to be without lawful authority and of no legal effect.
- Circular dated October 5, 2009 supported that only one year can be selected for audit.
- Tax department failed to meet the rationality test laid down in Raza Motors (2022 PTD 19).

Decision:

LHC dismissed the petition and held that:

1. Parallel proceedings Allowed

- Selection for audit under Section 177 is independent of reassessment under Section 122(5A).
- No overlap was found between reasons for reassessment and audit both dealt with different grounds.

2. Audit for Multiple Years Permissible

- Section 177 does not restrict selection of multiple years for audit.
- Circular of 2009 cannot override statute, especially post-amendments via Finance Acts 2009 & 2010.
- As long as reasons are recorded in writing and communicated, audit selection for multiple years is valid.

3. No evidence of Sectoral Audit

- LHC found no content in the notices to show that this was part of a broader "sectoral audit" campaign. Petitions lacked specific pleadings on this issue.

4. Petitioner's Reliance on Raza Motors Misplaced

- Raza Motors upheld the Commissioner's discretion in audit selection, provided reasons are given. Audit notices in this case satisfied said condition.

6. FISHING INQUIRIES AND REQUIRING DOCUMENTS WHILE CONDUCTING PROCEEDINGS UNDER SECTION 122(5A) IS NOT JUSTIFIABLE

2025 PTD 566

APPELLATE TRIBUNAL INLAND REVENUE

M/S KHADIJA WASEEM BUTT, LAHORE

VERSUS

THE COMMISSIONER INLAND REVENUE, ZONE RTO,LAHORE

APPLICABLE SECTIONS: 111,120(1),122(5A),177 OF THE INCOM TAX ORDINANCE, 2001

Brief Facts:

The appellant is an individual, filed an income tax return declaring income from property, prize bonds, and amnesty assets. The return was deemed assessed under Section 120(1).

The Additional Commissioner invoked Section 122(5A), questioning lack of source documentation for investments. The Additional Commissioner passed ex-parte order due to non-compliance and additions were made under Section 111.

Being aggrieved, the appellant filed appeal before ATIR and argue that the Additional Commissioner lacked authority post-Finance Act 2021 to conduct inquiries and should have relied on selection under Section 177. The appellant also produced evidence of prize bond winnings (supported by cheques and tax challans) and valid Amnesty Declarations for 2018 and 2019 before ATIR.

Decision:

ATIR decided the matter in favour of Appellant and held that:

- Additional Commissioner was not justified in making fishing inquiries nor was he justified in requiring documents while conducting proceedings under section 122(5A).
- Additional Commissioner should have used proper channels (via Chief Commissioner) to verify Amnesty Declarations.
- Contradictory treatment by Additional Commissioner, he accepted Amnesty of 2019, but rejected of 2018, both declared in the same wealth statement. This demonstrated non-application of mind and inconsistent departmental behavior.

7. PURPOSE OF ADR TO REDUCE LITIGATION AND PROMOTE ACCESSIBLE JUSTICE MUST NOT BE FRUSTRATED BY INACTION

2025 PTD 614

LAHORE HIGH COURT

M/S NATIONAL LOGISTICS CELL

VERSUS

ASSISTANT/DEPUTY COMMISSIONER AND OTHERS

APPLICABLE SECTIONS: 134A(1)OF THE INCOM TAX ORDINANCE, 2001

Brief Facts:

The Petitioner filed a second writ petition due to FBR's failure to establish an ADR Committee under Section 134A(1) of the Ordinance.

Earlier, in W.P. No. 2309/2024, the High Court had directed the FBR to resolve the dispute within one month and to grant interim relief. Despite this, no ADR Committee was constituted, leaving the petitioner without a legal forum for resolution.

Petitioner argued that:

- Under Finance Act, 2023, Section 134A(1) makes it mandatory for FBR to establish an ADR committee, particularly where the aggrieved party is a State-Owned Enterprise.
- The non-establishment of the committee violates the Legislative mandate and right to fair dispute resolution.
- The delay impairs access to justice and defeats the legislative intent.

Decision:

LHC disposed the writ petition with the following directions:

- Federal Government must immediately constitute the ADR Committee under Section 134A(1).
- No coercive action shall be taken against the petitioner until the ADR committee is formed.
- Purpose of ADR to reduce litigation and promote accessible justice must not be frustrated by inaction.

8. SECTION 7E WAS CONFISCATORY AND DISCRIMINATORY, VIOLATING THE FUNDAMENTAL RIGHTS TO PROPERTY AND EQUALITY UNDER THE CONSTITUTION

130 TAX 102 = 2024 PTCL 770 = 2025 PTD 480

BALOCHISTAN HIGH COURT

QUETTA CHAMBER OF COMMERCE & INDUSTRY AND ANOTHER

VERSUS

FEDERATION OF PAKISTAN THROUGH SECRETARY REVENUE DIVISION AND ANOTHER

APPLICABLE SECTIONS: 7E, 22 AND 24 OF THE INCOM TAX ORDINANCE, 2001

Brief Facts:

The Petitioner filed petition challenging the section 7E of the Income Tax Ordinance, 2001, which was inserted through the Finance Act, 2022. The petitioners argued that the provision is unconstitutional, claiming that it exceeds the legislative competence of the Federal Government, violates citizens' constitutional rights, and imposes discriminatory and confiscatory taxes. The petitioners argued that Section 7E is ultra vires (beyond the legal power) of the Federation because it involves taxing immovable property, a subject that falls under the provincial jurisdiction as per the Constitution.

Petitioner further argued that section 7E imposes a tax on immovable properties even if they do not generate income or are not used in economic activities. This means that citizens could be forced to sell their property to pay the tax, which could be considered an unlawful deprivation of property. Moreover, the provision exempts certain categories of property holders (such as those with agricultural land or farmhouses), creating discriminatory treatment between property owners.

The petitioners further argued that the legal fiction under Section 7E, which treats immovable property as generating income for the purpose of taxation, was irrational. This is because no actual economic transaction occurs with immovable property that would justify its taxation.

Decision:

BHC declared section as ultra vires to the Constitution, void ab initio, and therefore, struck it down. It was held that Federal Government cannot impose income tax on immovable property and due to such legislation citizens' rights under Articles 23–25 stand violated.

Taxing immovable property, including capital gains from immovable property, falls within the domain of the provinces and not the Federal Government. Therefore, imposition of income tax on immovable property by the Federation violates the Constitution by encroaching on provincial legislative powers.

Section 7E was confiscatory and discriminatory, violating the fundamental rights to property and equality under the Constitution.

BHC referred to the Elahi Cotton Mills case, where it was established that taxing based on legal fictions in the absence of economic activity could be considered irrational. The BHC agreed with the petitioners' argument, ruling that taxing immovable properties under a legal fiction, without any underlying economic transaction was irrational.

Status of decisions on 7E by other courts

Courts	Decisions / Status
Supreme Court	Currently the matter related to 7E is pending before the Supreme Court and vide its order granted a stay, subject to a 50% tax payment and a bank guarantee for the remaining 50%.
Sindh High Court	The petition of taxpayers has been held as intra vires to the Constitution.
Lahore High Court	The petition of taxpayers has been held as intra vires to the Constitution

Courts	Decisions / Status
Islamabad High Court	The petition of taxpayers has been held as ultra vires to the Constitution, adjudging it "confiscatory in nature, hence is in violation or derogation of Article 23 of the Constitution.
Peshawar high court	The petition of taxpayers has been held as ultra vires to the Constitution.

9. THE TAX DEPARTMENT'S RECOVERY ACTION IS ILLEGAL AND ULTRA VIRES IN PRESENCE OF STAY ORDER

2025 PTD 631

LAHORE HIGH COURT

M/S SITARA DILDAR FUELS (PRIVATE) LIMITED THROUGH CHIEF EXECUTIVE OFFICER

VERSUS

FEDERATION OF PAKISTAN THROUGH SECRETARY FINANCE AND 3 OTHERS

APPLICABLE SECTIONS:
4C,4C(4),133,138(1),140 OF THE INCOM TAX ORDINANCE, 2001, 199 OF CONSTITUTION OF PAKISTAN, 1973, 9 OF GENERAL CLAUSES ACT, 1897 AND 9 OF PUNJAB GENERAL CLAUSES ACT, 1956

Brief Facts:

The petitioner, a company engaged in petroleum sales, challenged the withdrawal of Rs.1,678,081 from its bank account by the tax department despite an active stay order by the ATIR. The stay order against a super tax demand was granted on January 31, 2024 for 30 days. On March 1, 2024, the tax department issued a notice under Section 140 of the Ordinance, which led the bank to transfer the disputed amount to the department. However, the ATIR had extended the stay on February 29, 2024 for another 30 days.

Decision:

LHC held that:

Since the stay was extended on February 29, 2024 the notice and consequent recovery on a March 1, 2024 were during the currency of the stay, making the department's action unlawful.

The Tax department's recovery action was treated as illegal and ultra vires. The impugned notice dated March 1, 2024 and the action of attaching and withdrawing funds from the petitioner's bank account were set aside. The department was ordered to refund the amount, and the ATIR was directed to decide the appeal on merit.

10. APPROVAL OF CONDONATION APPLICATION CANNOT BE IMPLIED AND SHOULD EXPRESSLY BE DECIDED.

(2025) 131 TAX 371

SUPREME COURT OF PAKISTAN

M/S MUHAMMAD FAISAL PROP, F.A. TRADERS, LAHORE

VERSUS

COMMISSIONER INLAND REVENUE, ZONE-II, RTO-II, LAHORE

APPLICABLE SECTIONS: SECTIONS 111, 114, 122(5), 122C OF THE INCOME TAX ORDINANCE, 2001, AND SECTION 5 OF THE LIMITATION ACT, 1908.

Brief Facts:

The Petitioner, who was a biscuit distributor, came under income tax scrutiny for the Tax Year 2013 due to alleged undeclared purchases worth Rs. 21.03 million from M/s Ismail Industries. The tax department issued several notices under Sections 114, 122C, and 122(5) of the Income Tax Ordinance. However, the Petitioner did not respond to these notices. As a result, the Tax Officer finalized the assessment, estimating the Petitioner's income at Rs. 21.48 million and raised a tax demand of Rs. 5.09 million.

The Petitioner challenged this assessment before the Commissioner Inland Revenue (Appeals), who upheld the Officer's order. The Petitioner then filed an appeal before the Appellate Tribunal Inland Revenue, which set aside the assessment. The Tribunal ruled that the Department lacked jurisdiction and that the additions made under Section 111 (unexplained income) were not legally justified.

However, the Lahore High Court disagreed with the Tribunal. It overturned ATIR's decision and reinstated the assessment

order passed by the Tax Officer, thereby reviving the original tax demand.

Petitioner challenged the matter before SC, where:

- The Petitioner claimed that the Department's appeal before the High Court was filed 8–9 days after the deadline, even after correcting filing defects. Despite raising objections, the Petitioner argued that the High Court did not address or decide on this delay.
- The Petitioner asserted that the Assessing Officer from Unit 04, RTO Lahore, did not have legal authority to issue the order, as the Petitioner was assessed in a different tax zone. Therefore, the proceedings were without jurisdiction.
- The Petitioner argued that the alleged undisclosed purchases were made from M/s Ismail Industries, a known and traceable company. Hence, treating such purchases as unexplained income under Section 111 of the Income Tax Ordinance was legally incorrect.

Decision:

The Supreme Court held that:

- The delay in filing an appeal is not a minor issue or "technicality." Once the limitation period expires, the other party (the Petitioner) gains a vested legal right that must be respected. This principle was reinforced with reference to the case Asad Ali v. Bank of Punjab.
- The Court found that the Lahore High Court made an error by not clearly deciding the Department's application to condone the delay. The High Court's silence was taken as an implied condonation, which is not legally valid. The law requires that such rights cannot be taken away by implication or assumption.
- As a result, the Supreme Court sent the case back to the High Court, directing it to properly decide whether the delay in filing the appeal should be excused, after hearing both sides.
- Since the delay issue was still unresolved, the Supreme Court did not go into the merits of the tax case, such as the jurisdictional challenge or whether Section 111 was wrongly applied. These will be considered only after the High Court rules on the limitation issue.

11. RETROSPECTIVE APPLICATION OF WINDFALL TAX ON BANKING SECTOR HELD AS CONSTITUTIONAL

SINDH HIGH COURT

(2025) 131 TAX 403

NATIONAL BANK OF PAKISTAN

VERSUS

FEDERATION OF PAKISTAN

APPLICABLE LAWS:

- **INCOME TAX ORDINANCE, 2001 SECTION: 111,114,122C,122G,122(5)**
- **LIMITATION ACT, 1908 SECTION: 5**

Brief Facts:

The Petitioners, including the National Bank of Pakistan and other commercial banks, challenged the validity of Section 99D of the Income Tax Ordinance, 2001, which was introduced through the Finance Act, 2023. This provision allowed the Federal Government to impose tax on so-called "windfall income," defined as unusually high profits arising from unforeseen economic factors, such as foreign exchange fluctuations. The law also permitted such taxation to be applied retrospectively, covering income from up to three previous tax years.

The Petitioners also challenged SRO 1588(I)/2023, which specifically imposed a 50% tax on excess foreign exchange income earned by the banking sector. The SRO calculated this excess by comparing the bank's foreign exchange income in Tax Year 2023 with their average forex income from Tax Years 2020 to 2022. If a bank's forex income exceeded the average, the surplus amount was to be taxed at the 50% rate.

Initially, the Court had issued interim orders suspending the operation of the SRO, allowing banks temporary relief from the windfall tax.

Arguments:

The Petitioners argued that:

- Retrospective taxation under Section 99D violated Petitioners vested rights, since tax liabilities for past years had already been finalized under the law, and such matters should not be reopened.
- They further contended that Section 99D exceeded the legislature's constitutional authority, as the subject of "windfall income" was regulatory in nature and did not fall under Entry 47 of the Federal Legislative List, which governs income tax laws.
- The Petitioners also argued that SRO 1588(I)/2023 was ultra vires (beyond legal authority) because it was issued by a caretaker government, which lacks power to make major policy decisions, contrary to the Supreme Court's ruling in Mustafa Impex.
- Additionally, it was argued that the SRO was defective in form and process as it failed to clearly define what constituted "windfall gains", and it was not presented before Parliament within 90 days as required under the law for delegated legislation.
- Lastly, they contended that the SRO had discriminatory potential, as it targeted banks specifically, and could be applied arbitrarily, violating Article 25 of the Constitution, which guarantees equality before the law and equal protection of the law.

The Tax Department argued that:

- The new windfall tax law is constitutionally valid. They explained that under Entry 47 of the Federal Legislative List and Article 260 of the Constitution, the government has the power to impose taxes on "excess profits", and this includes taxing unusually high gains such as those from foreign exchange fluctuations.
- They also defended the retrospective application of the law, stating that such taxation is legally allowed and was upheld by the Supreme Court in the Mekotex case (PLD 2025 SC 1168).
- Regarding the SRO 1588(I)/2023, the Department maintained that it was issued within the lawful authority of the caretaker government. They argued that the caretaker setup can take steps in the public interest, especially when such measures can later be reviewed or reversed by an elected government.
- They also responded about the lack of clarity in defining "windfall gains" by pointing out that the SRO used a clear and objective method, which calculates excess income by comparing a bank's foreign exchange profits in Tax Year 2023 with its 5-year average (2020–2022).
- Finally, they stated that all legal procedures were followed, and the SRO was properly placed before Parliament within the required 90-day period, it was issued on 21 November 2023 and presented to Parliament on 16 February 2024. Therefore, they argued, the tax and the SRO are both valid and enforceable under the law.

Decision:

The Sindh High Court held that:

- Parliament had the legal authority to enact section 99D of the Ordinance, under Entry 47 of the Federal Legislative List and Article 260 of the Constitution, which allow taxation on excess profits. Citing the case of Elahi Cotton Mills (PLD 1997 SC 582), the Court reaffirmed that such tax measures fall within Parliament's powers.
- It also held that retrospective taxation is permissible, referring to the Mekotex case (PLD 2025 SC 1168), where the Supreme Court confirmed that tax laws can apply to past income or transactions.
- The Court rejected the argument that the law was discriminatory, stating that the mere possibility of future misuse or selective enforcement is not enough to strike down a valid law.
- Regarding SRO 1588(I)/2023, the Court found it to be lawfully issued. It held that the caretaker government acted within its powers under the Elections Act, 2017, as the measure was introduced in the public interest and could later be reviewed by an elected government.

- The Court also noted that the method used to calculate "windfall gains" based on comparing a bank's 2023 forex profits to its 5-year average, was clear, objective, and in line with Section 99D. It further ruled that there was no excessive delegation of legislative power, as the SRO complied with Article 77 of the Constitution, relying on Zaibtun Mills (PLD 1983 SC 358).
- Finally, the Court lifted the interim suspension on the SRO, pointing out that under the Supreme Court's judgment in Pakistan Oilfields, courts should not suspend the enforcement of tax laws during the pendency of a case. As a result, Section 99D and SRO 1588(I)/2023 now stand fully enforceable, and the windfall tax on banks is legally in effect.

12. "PRECEDING FOUR TAX YEARS" IN CLAUSE 105A REFERS TO AUDITED TAX YEARS, NOT AUDIT COMPLETION DATES

SINDH HIGH COURT

(2025) 131 TAX 433

M/S. FAZLEE SONS (PVT.) LTD

VERSUS

FEDERATION OF PAKISTAN & OTHERS

APPLICABLE LAWS:

- **INCOME TAX ORDINANCE, 2001 SECTIONS: 2(68),74,177(1) AND SECOND SCHEDULE, PART IV, CLAUSE 105A**

Brief facts:

The Petitioner, challenged an audit selection notice dated 11 October 2024 for Tax Year 2023, issued under Section 177(1) of the Income Tax Ordinance, 2001. The company claimed that it was exempt from audit under Clause 105A of Part IV of the Second Schedule to the Ordinance. This clause provides that a taxpayer cannot be selected for audit if it has already been audited in the preceding four tax years. Taxpayer argued that since its audit for Tax Year 2018 was completed on 28 June 2024, it should be protected from further audit until after 28 June 2028, interpreting the four-year restriction as starting from the date of audit completion. It also relied on FBR Circular dated 21 July 2022, which appeared to support this understanding.

In response, the Federal Board of Revenue (FBR) took a different position. It argued that Clause 105A applies to the preceding four tax years in calendar terms, meaning the years 2019 to 2022 in the case of a Tax Year 2023 audit. Since taxpayer was last audited for 2018, FBR contended that the company was not exempt from selection for 2023. It also argued that the FBR Circular could not override the law, calling it ultra vires the statute, meaning it went beyond what the Income Tax Ordinance legally allows.

Decision:

The Court interpreted Clause 105A of Part IV of the Second Schedule by clarifying that the phrase "preceding four tax years" refers to the actual tax years audited, not the date when the audit was completed. For example, even if the audit of Tax Year 2018 was completed in 2024, it still counts as an audit of 2018, not of 2024. Therefore, for Tax Year 2023, the relevant "preceding four years" are 2019 to 2022. Since taxpayer was not audited in those four years, the audit selection for 2023 was valid.

The Court further held that the purpose of Clause 105A is to prevent repeated or frequent audits, not to provide blanket immunity for a 10-year period, which would be the result of the Petitioner's interpretation (i.e., starting the 4-year bar from the audit completion date).

In addition, the Court rejected the FBR Circular of 2022, which had suggested that audits could only be re-initiated four years after the completion of a previous audit. The Court ruled that such circulars have no legal force if they conflict with the clear wording of the law and reaffirmed that statutory language prevails over administrative guidance.

Accordingly, the Court held that the audit notice for Tax Year 2023 was valid, and the petition was dismissed in limine (i.e., at the preliminary stage, without further hearing), finding no legal defect in the issuance of the notice.

13. TAX AUTHORITIES MUST ISSUE REASONED, SPEAKING ORDERS IN COMPLIANCE WITH SECTION 24A;

FAILURE TO DO SO RENDERS ORDERS INVALID.

SINDH HIGH COURT

(2025) 131 TAX 450

M/S AL MASOOM PRODUCTS

VERSUS

COMMISSIONER (APPEAL-VI) INLAND REVENUE

APPLICABLE LAWS:

- **INCOME TAX ORDINANCE, 2001 SECTION: 122,122(1),122(9),129,133**
- **GENERAL CLAUSES ACT, 1897 SECTION: 24A**

Brief Facts:

The Petitioner challenged the turnover tax assessments imposed on its product, Rusk, under section 122(1) of the Income Tax Ordinance, 2001. The Assessing Officer (AO) applied a turnover tax rate of 1%, treating Rusk as a general item, not eligible for any concessional treatment.

The Petitioner contended that Rusk falls within the category of Fast-Moving Consumer Goods (FMCGs), and as such, qualifies for the reduced turnover tax rate of 0.2%, as per the relevant SROs and tax provisions applicable to FMCG items. However, the Commissioner (Appeals) upheld the AO's order and rejected the Petitioner's claim. The Commissioner held that Rusk did not meet the prescribed criteria to be classified as an FMCG for tax purposes and therefore did not qualify for the reduced rate of 0.2%.

The petitioner further argued that the orders passed by the AO and the Commissioner (Appeals) are vitiated for want of lawful reasoning. The authorities failed to provide cogent grounds for their conclusions, thereby violating the requirements of Section 24A of the General Clauses Act, 1897.

The Respondent Department did not offer a substantive defense on merits. Instead, the Department conceded that the impugned orders were deficient in reasoning and did not satisfy the statutory requirements of a speaking order as envisaged under Section 24A of the General Clauses Act, 1897. In view of this admitted procedural lapse, the Department consented to a remand of the matter for fresh adjudication.

Decision:

The Court held that:

- Both the Assessing Officer and the Commissioner (Appeals) had failed to discharge their statutory obligations under Section 24A of the General Clauses Act, 1897.
- The impugned orders were declared non-speaking and devoid of reasoning, as they failed to engage with the relevant facts and legal arguments presented by the Petitioner, and provide any cogent or logical justification for the application of the 1% turnover tax rate to Rusk, without evaluating whether it qualified as an FMCG.
- The Court emphasized that "the authorities are required to act judiciously with fair and reasoned orders."
- In light of the admitted deficiencies and in the interest of justice, the Court set aside the impugned orders and remanded the matter to the Assessing Officer with directions to conduct a fresh adjudication, and pass a reasoned and speaking order after affording the Petitioner a proper opportunity of hearing.
- The Court also took cognizance of a broader systemic issue, noting that ill-reasoned and perfunctory orders by tax authorities have become a recurring problem, leading to avoidable litigation and burdening the judicial system. Accordingly, the Court directed the FBR to conduct training sessions for adjudicating officers on legal reasoning and standards of quasi-judicial conduct, and ensure institutional compliance with Section 24A of the General Clauses Act, 1897 in all future adjudication.

14. SEPARATE NOTICE UNDER SECTION 111 IS MANDATORY BEFORE INITIATING AMENDMENT PROCEEDINGS UNDER SECTION 122

(2025) 131 TAX 464

LAHORE HIGH COURT

MUBASHIR YAMEEN

VERSUS

COMMISSIONER INLAND REVENUE

APPLICABLE SECTIONS: 2(29), 111, 111(1), 122, 122(1), 122(4), 122(5), 122(5)(i), 122(5)(ii), 122(5)(iii), 122(8), 122(9), 133, 133(5) OF THE INCOME TAX ORDINANCE, 2001

Brief Facts:

The taxpayer, was issued a notice under Section 122(9) of the Ordinance, alleging undeclared immovable property and loan transactions.

The Tax department sought to amend the assessment under Section 122(1), treating the unreported assets and income as unexplained under Section 111. However, no separate notice under Section 111 was ever issued to the taxpayer before initiating the assessment amendment.

Both CIRA and ATIR upheld the assessment. Being aggrieved, the taxpayer filed a reference before the LHC under Section 133 of the Ordinance.

The petitioner taxpayer argued that a separate and prior notice under Section 111 is mandatory before invoking Section 122 based on unexplained income or assets. Without such a notice, there is no "definite information" required under Section 122(5).

The tax department argued that issuance of a notice under Section 122(9) suffices and that separate notice under Section 111 is not a legal requirement.

Decision:

LHC decided the matter in favour of petitioner and held that:

- Perusal of the provisions of section 111 of the Ordinance shows that if the instances/categories of unexplained income and assets, mentioned therein, come to the knowledge of the tax department, he is not obliged to form an opinion on the basis of information so gathered rather is required to issue notice to the taxpayer seeking explanation, confronting the information collected that its case comes within the heads specified in section 111(1). Though word "notice" is not specifically mentioned in the said previsions of law but words "the person offers no explanation" and "or the explanation offered by the person is not, in the Commissioner's opinion, satisfactory" clearly suggest that for an explanation to be offered by the person, he must have been issued a notice. Therefore, a separate notice under Section 111 is mandatory before initiating amendment proceedings under Section 122 when the addition is based on unexplained income/assets.
- In the instant case, neither notice under Section 111 of the Ordinance has been issued to the taxpayer nor was the taxpayer specifically confronted with such proposed addition so that the taxpayer could have advanced some explanation in this regard. Thus, impugned addition appears to be without any lawful authority.
- The term "definite information" in Section 122(5) requires prior completion of proceedings under Section 111, including issuance of notice and formation of an opinion by the tax department.
- Reliance placed on the Supreme Court in Civil Petition No. 2447-L/2022 , affirming that:
    i. Section 111 proceedings must be finalized first.
    ii. Only then does the information qualify as "definite" for Section 122(5).
    iii. Without this sequence, amendment under Section 122 is invalid.
- The ATIR erred in confirming the amended assessment without verifying compliance with:
    i. The mandatory issuance of notice under Section 111, and
    ii. The existence of valid definite information as per law.

15. SECTION 214A CANNOT OVERRIDE THE FIXED DEADLINE UNDER SECTION 100D, WHICH CAN ONLY BE EXTENDED THROUGH LEGISLATIVE ACTION.

LAHORE HIGH COURT

(2025) 131 TAX 437

M/S. AR ENTERPRISES

VERSUS

FEDERATION OF PAKISTAN AND OTHERS

APPLICABLE LAWS:

- **Income Tax Ordinance, 2001: Sections 100D, 214A**
- **Finance Act, 2021**

Brief Facts:

The Petitioner, a builder registered under the special tax regime under Section 100D of the Income Tax Ordinance, 2001, sought an extension of the statutory deadline (30.09.2023) for completing the grey structure of its project. The FBR rejected the application. The Petitioner challenged this rejection, arguing that Section 214A, which permits condonation of procedural delays, could be invoked to extend the substantive deadline under Section 100D.

The FBR contended that Section 100D, being a special regime with a fixed timeline, could not be overridden by the general provision of Section 214A. They emphasized that the legislature had already extended the deadline once (from 30.09.2022 to 30.09.2023) via the Finance Act, 2021, indicating the exclusivity of the timeline.

Decision:

The Lahore High Court held that:

- Section 214A applies only to procedural delays, while Section 100D imposes a substantive, time-bound obligation. The Court ruled that the latter's deadline was non-negotiable and could not be extended through Section 214A.
- The Court noted that the legislature's explicit extension of the deadline via the Finance Act, 2021 demonstrated that further extensions required legislative action, not administrative discretion under Section 214A.
- While the FBR's rejection order lacked detailed reasoning, the Court upheld it on substantive grounds, affirming that no reasoning could legitimize an extension incompatible with section 100D's framework.

Sales Tax Act, 1990

A. Reported Decisions

1. INPUT TAX ALLOWED ON ELECTRICITY BILLS CONSUMED IN THE RESIDENTIAL COLONY OF THE LABOURERS

2025 PTD 540

APPELLATE TRIBUNAL INLAND REVENUE

COMMISSIONER INLAND REVENUE, CORPORATE ZONE, RTO, PESHAWAR

VS

M/S G.A. POLYMER (PVT.) LTD.

APPLICABLE SECTIONS: 8(1)(A), 33(5), 34, 66, 73 OF THE SALES TAX ACT, 1990(ST ACT)

Brief Facts:

The sales tax audit for the period from July 2013 to June 2016 uncovered several issues, including undeclared sales from customer advances, suppressed sales based on discrepancies between returns and finished goods data, unacknowledged production, undisclosed imported raw material, and unexplained bank receipts. Additionally, inadmissible input tax adjustments were identified on utility bills for labor colonies and offices. An initial assessment order was issued, demanding sales tax along with default surcharge and a penalty.

Upon an initial appeal, the CIRA significantly reduced the confirmed demand, retaining a smaller portion along with applicable surcharge and penalty. Both parties subsequently appealed this decision before ATIR.

Decision:

The ATIR's decision is as follows:

Department's Appeal (CIR): Dismissed

The ATIR upheld the CIR(A)'s order, finding no legal or factual errors. The tax department failed to present convincing evidence to challenge the CIRA's findings.

Taxpayer's Appeal (M/S G.A. Polymer (PVT.) Ltd.): Allowed

The ATIR accepted the taxpayer's arguments regarding alleged suppression of production, as supporting documentation such as invoices, payment proofs, bank statements, and tax challans were provided. The ATIR also ruled in favor of the taxpayer concerning input tax on electricity consumed in labor colonies, citing previous judgments from the Sindh High Court and Islamabad High Court that allowed such input tax.

As a result, the ATIR directed the revenue department to either refund the amount recovered from the taxpayer during the appeal's pendency or allow its adjustment against future tax liability.

2. THE ASSUMPTION OF JURISDICTION IS NOT IN CONTRAVENTION OF SECTION 30 AND 31 OF THE SALES TAX ACT, 1990

2025 PTD 544

ISLAMABAD HIGH COURT

GUARANTEE-SALEX-THALES JOINT VENTURE

VS

FEDERATION OF PAKISTAN THROUGH SECRETARY REVENUE DIVISION & OTHERS

APPLICABLE SECTIONS: SECTIONS 3, 6, 11, 22, 23, 25, 26, 30, 31, 33, 34 OF THE SALES TAX ACT, 1990

Brief Facts:

Petitioner filed a constitutional petition against the Federation of Pakistan, challenging a show cause notice issued by an Officer Inland Revenue (OIR). The notice alleged short levy/non-levy of tax on construction services provided to the Civil Aviation Authority (CAA). The petitioner argued that the OIR lacked the jurisdiction to issue the notice, that the services provided to CAA were exempt from tax as CAA was an organ of the Federal Government, and that an incorrect tax rate was applied retrospectively.

The petitioner relied on the judgment in "Zaver Petroleum Corporation Limited v. Federation of Pakistan, etc.". The respondents contended that the notice was validly issued and that the "Zaver Petroleum" judgment was no longer relevant due to a later Supreme Court decision. The CAA, as a respondent, also argued that the petition was incompetent, citing arbitration clauses in the contract and the availability of alternate remedies.

Decision:

The IHC dismissed the petition, confirming the OIR jurisdiction to issue the show cause notice based on a Supreme Court ruling in case of the Commissioner Inland Revenue, Zone-III, RTO-II, Lahore vs. Messrs Hamza Nasir Wire and others. The IHC rejected the petitioner's claim of tax exemption for services provided to the CAA, clarifying that the tax applies to the petitioner as an independent contractor providing services to CAA. Since there was no jurisdictional defect and adequate remedies were available under tax laws, the petition was dismissed.

3. TURNOVER DECLARED UNDER THE INCOME TAX LAW CANNOT AUTOMATICALLY BE CONSIDERED EVIDENCE OF TAXABLE SUPPLIES UNDER THE SALES TAX ACT

2025 PTD 556

PESHAWAR HIGH COURT

M/S RED CO ENTERPRISES

VS

DEPUTY COMMISSIONER IR & ANOTHER

APPLICABLE SECTIONS: SECTIONS 3, 11(2), 22, 25, 34(1), 47 OF THE SALES TAX ACT, 1990(ST ACT)

Brief Facts:

This Sales Tax Reference, filed by M/S Red Co Enterprises, challenged an assessment of sales tax liability based on discrepancies between its income tax returns and sales tax returns for the tax year 2018. The assessing officer noted a significant difference in turnover declared under the Income Tax Ordinance, 2001, and sales reported in sales tax returns, leading to a show cause notice and an assessment order for sales tax, further tax, and default surcharge.

The petitioner argued that their income tax returns were filed under the Voluntary Tax Compliance Scheme (VTCS), which did not require sales tax registration, and that their sales tax liability was discharged based on electricity consumption. They contended that relying solely on income tax returns for sales tax assessment was misplaced and not supported by the Sales Tax Act. Both the Commissioner (Appeals) and the Appellate Tribunal Inland Revenue (ATIR) had previously dismissed the petitioner's appeals.

Decision:

The PHC accepted the reference, ruling that sales tax is an indirect tax levied only on taxable supplies and activities under Section 3 of the Sales Tax Act, 1990. The PHC emphasized that turnover declared under the income tax law cannot automatically be considered evidence of taxable supplies under the Sales Tax Act without proof of taxable activity. The assessing officer had failed to conduct an audit under Sections 22 and 25 of the Sales Tax Act or establish a nexus between the declared income and taxable supplies.

Citing precedents like Haji Sultan Ahmed v. CBR (2008 PTD 103) and Al-Hilal Motors (PTCL 2004 CL), the court reiterated that both "taxable supply" and "taxable activity" must coexist to trigger sales tax liability. The PHC concluded that relying solely on income tax records, which fall under a different statutory regime and are not recognized as sales tax records under Section 22, was impermissible. Therefore, the entire assessment, being based on an "alien consideration" (income tax turnover), was declared void. The PHC set aside the orders of the authorities below and answered the reference in favor of the petitioner.

4. INPUT TAX IS ALLOWABLE ON GOODS USED DIRECTLY OR INDIRECTLY IN TAXABLE ACTIVITY

2025 PTD 602

APPELLATE TRIBUNAL INLAND REVENUE (ATIR)

M/S FAISALABAD ELECTRIC SUPPLY COMPANY LTD., FAISALABAD

VS

THE COMMISSIONER INLAND REVENUE, LARGE TAXPAYERS' OFFICE, FAISALABAD

APPLICABLE SECTIONS: SECTIONS 8, 11(2), 33, 34, 45B OF THE SALES TAX ACT, 1990

Brief Facts:

The dispute originated from a scrutiny of FESCO's records, which led to the disallowance of input tax for tax periods in 2019 and 2020 on items like office equipment, mineral water, travel sets, soaps, and sugar. The department issued a show cause notice and subsequently an order disallowing the input tax, along with default surcharge and penalty. This order was upheld by the CIRA.

FESCO appealed to the ATIR, arguing that as a government company, all input tax was related to taxable supplies, and the department failed to prove otherwise.

Decision:

The ATIR allowed FESCO's appeal, ruling that:

- The disallowance of input tax was based on grounds not mentioned in the original show cause notice, making the order void.
- The department failed to demonstrate how the purchased items (e.g., Chain Pulley Block, Security Shoes, Electric Accessories) fell under disallowed categories specified in Section 8(1)(a), (f), (g), (h), or (i) of the Sales Tax Act.
- The Tribunal reiterated that input tax is allowable on goods used directly or indirectly in taxable activity, citing several precedents.
- The ATIR concluded that both the original assessment order and the appellate order were based on incorrect application of law and facts, and therefore set them aside.

5. THE LEVY OF EXTRA TAX ON ELECTRICITY AND GAS CONSUMERS NOT REGISTERED FOR SALES TAX IS VALID UNDER SECTION 3(5) OF THE SALES TAX ACT, 1990.

2025 PTD 618

SINDH HIGH COURT

JAFFER IMAM

VS

FEDERATION OF PAKISTAN THROUGH SECRETARY REVENUE DIVISION AND 2OTHERS

APPLICABLE SECTIONS: SECTIONS 3 OF THE SALES TAX ACT, 1990(ST ACT)

Brief Facts:

The SHC dismissed multiple constitutional petitions challenging SRO No. 1222(I)/2021, which imposed an additional tax on electricity and natural gas bills for industrial and commercial connections that lacked Sales Tax registration or were not on the Active Taxpayers List.

The petitioners, largely charitable institutions, hospitals, schools, or businesses, argued that they were exempt from sales tax registration because their supplies were non-taxable or exempt, and therefore, they should not be liable for this extra tax.

Decision:

The SHC emphasized that the extra tax levied under Section 3(5) of the Sales Tax Act, 1990, is a tax on the supply of electric power and natural gas, similar to a consumption tax, and is independent of the consumer's business activity or sales tax registration status. The SHC concluded that the issue had been definitively decided against the petitioners by the Supreme Court in case of Al-Zarina Glass Industries v. Federation of Pakistan and 3 others (2018 PTD 1600), leaving no grounds to entertain further arguments.

6. MODIFYING THE TAX RETURNS WITHOUT PRIOR NOTICE TO BE WITHOUT LAWFUL AUTHORITY AND OF NO LEGAL EFFECT.

2025 PTD 659

LAHORE HIGH COURT

SHAKARGANG FOOD PRODUCTS LIMITED AND ANOTHER--PETITIONERS

VERSUS

FEDERAL BOARD OF REVENUE AND ANOTHER—RESPONDENTS

APPLICABLE SECTIONS: 10 OF THE SALES TAX ACT, 1990

Brief Facts:

The FBR had modified the nature of amounts in tax returns from creditable inputs to non-creditable under Section 10 of the Sales Tax Act, 1990.

The core legal issue was whether such unilateral amendments without a prior show-cause notice were lawful. The LHC found that the petitioners were deprived of due process as they were not given an opportunity to respond before their tax returns were modified. Additionally, the notices issued by the FBR lacked references to the specific legal provisions authorizing the amendments and the proposed action.

Decision:

The LHC allowed the writ petition, declaring the FBR's actions of amending/modifying the tax returns relating to clause 6 as without lawful authority and of no legal effect. The impugned notices were also struck down. The LHC, however, granted the respondents the liberty to issue proper show-cause notices to the petitioners for eliciting their response and holding an inquiry regarding the amounts mentioned in clause 6 of their tax returns.

7. SECTION 7 SHOULD BE INTERPRETED LIBERALLY TO ALLOW INPUT TAX ADJUSTMENT FOR WORKER FACILITIES WITHIN FACTORY PREMISES THAT SUPPORT MANUFACTURING.

(2025) 131 TAX 382

SUPREME COURT OF PAKISTAN

COMMISSIONER INLAND REVENUE, CORPORATE ZONE, RTO PESHAWAR

VS

M/S FLYING KRAFT PAPER MILLS (PVT.) LIMITED, CHARSADDA AND ANOTHER

COMMISSIONER INLAND REVENUE, LEGAL LTO, KARACHI

VS

MATTARI SUGAR MILLS, KARACHI

APPLICABLE SECTIONS: 7 OF THE SALES TAX ACT, 1990

Brief Facts:

The Supreme Court of Pakistan addressed an appeal regarding the disallowance of input tax on utilities and other expenses incurred for a factory's residential colony located within the factory premises. The Commissioner Inland Revenue had argued that these expenses were not directly related to taxable supplies and thus input tax should be disallowed under Sections 7 and 8 of the Sales Tax Act, 1990.

Both the ATIR and the High Court ruled in favor of the taxpayer. They concluded that if the residential colony is within the registered factory premises and contributes to the manufacturing process by housing workers for unrestrained factory work, then the utilities and expenses associated with it are admissible for input tax adjustment.

Decision:

The SC upheld the decisions of the ATIR and the High Court. The SC emphasized that the residential colony was an integral part of the manufacturing unit, as evidenced by its registration within the factory premises. It also stated that Section 7 of the Act should be interpreted liberally, allowing for input tax adjustment when facilities are provided for the convenience of workers within the factory premises, directly supporting the manufacturing process. The SC dismissed the department's appeal, affirming the taxpayer's right to claim input tax on these expenses.

8. CLAUSE 4 OF SRO 678 DOES NOT EXEMPT SALES TAX ON LOCAL SUPPLIES TO PETROLEUM COMPANIES

(2025) 131 TAX 421

ISLAMABAD HIGH COURT

M/S ADOS PAKISTAN LIMITED, ISLAMABAD

VS

THE COMMISSIONER INLAND REVENUE, ISLAMABAD, & OTHERS

APPLICABLE SECTIONS: 3, 7, 13 OF THE SALES TAX ACT, 1990 (ST ACT)

Brief Facts:

The IHC addressed a Sales Tax Reference involving M/s ADOS Pakistan Limited. The company claimed exemption from sales tax

on both imported raw materials (not locally available) used to manufacture oil/gas equipment and the subsequent supply of this finished equipment to petroleum sector companies, citing Clause 4 of SRO 678(I)/2004.

However, the tax authorities denied this exemption, demanding sales tax on the finished goods. The appellate forums had upheld this demand.

Decision:

The IHC ruled against the applicant, stating that Clause 4 of SRO 678 does not provide an exemption from sales tax on locally manufactured goods supplied to petroleum sector companies. The IHC emphasized that the language of the SRO must be interpreted plainly, and any policy considerations cannot override its clear meaning.

Regarding the imposition of default surcharge, the court reiterated that it is automatically attracted on short-paid sales tax, even without proof of deliberate intent (mens rea), citing previous judgments. Consequently, the court found no infirmity in the impugned orders and answered the questions in favor of the Tax Department and against the applicant.

9. 18-MONTH AUDIT VIOLATED THE TERM "ONCE IN A YEAR" SPECIFIED UNDER SECTION 25(2)

(2025) 131 TAX 479

LAHORE HIGH COURT, MULTAN

THE COMMISSIONER INLAND REVENUE LEGAL ZONE, LARGE TAXPAYERS OFFICE MULTAN

VS

M/S USMAN TRADE LINKERS, MULTAN

APPLICABLE SECTIONS: 11, 24, 25, 47 OF THE SALES TAX ACT, 1990

Brief Facts:

The LHC, Multan Bench, addressed a Sales Tax Reference challenging an audit spanning 18 months (July 2016-December 2017), which the ATIR had annulled, ruling it exceeded the "once in a year" limit under Section 25(2) of the Sales Tax Act, 1990. The department argued that no explicit bar exists for auditing periods longer than one year.

Decision:

The LHC clarified that while an authorized officer can request documents for any period under Section 25(1) within the legal retention period (Section 24), an audit conducted under Section 25(2) must be performed "once in a year." This phrase implies a period covering 12 months, whether a financial or calendar year, depending on the department's intent or conventional practice.

The LHC found that the matter required re-determination and remanded the case back to the ATIR. The ATIR was directed to decide the appeal afresh in light of the LHC's interpretation regarding the "once in a year" audit limitation. The LHC answered the reference question by affirming that the 18-month audit violated the term "once in a year" specified under section 25(2).

10. SECOND SHOW-CAUSE NOTICE AFTER THE EXPIRY OF THE STATUTORY PERIOD UNDER SECTION 11(5) WAS ILLEGAL,

(2025) 131 TAX 519

SINDH HIGH COURT,

M/S YAKIN CO. THROUGH PROPRIETOR

VS

FEDERATION OF PAKISTAN THROUGH SECRETARY REVENUE DIVISION AND EX-

OFFICIO CHAIRMAN AND 2 OTHERS

APPLICABLE SECTIONS: 11 OF THE SALES TAX ACT, 1990

Brief Facts:

The SHC heard a constitutional petition concerning the issuance of a second show-cause notice by the tax Department after the 120-day period stipulated under Section 11(5) of the Sales Tax Act, 1990, had expired. The department attributed the delay to frequent transfers of officers.

The SHC reiterated that when a law prescribes a specific manner for an action, it must be followed precisely. It emphasized that no one should suffer due to the acts or omissions of state functionaries. The SHC found that the department's failure to finalize the matter and pass an order-in-original within the mandatory 120-day

period (or further extended 90-day period) rendered the subsequent issuance of a second show-cause notice illegal.

Decision:

The SHC vacated the second show-cause notice, affirming that the department's action of not passing an order-in-original on the first notice and issuing a second one after the mandatory period was unlawful.

Baluchistan Sales Tax on Services Act, 2015

A. Reported Decision:

1. ECONOMIC ACTIVITY AND VIRTUAL PRESENCE IN BALOCHISTAN WARRANTED LOCAL REGISTRATION

2025 PTD 638

LAHORE HIGH COURT

M/S COCA-COLA EXPORT CORPORATION PAKISTAN THROUGH AUTHORIZED REPRESENTATIVE

VS

COMMISSIONER APPEALS, BALOCHISTAN REVENUE AUTHORITY AND ANOTHER

APPLICABLE SECTIONS: 2, 25, 27, 48 OF BALOCHISTAN SALES TAX ON SERVICES ACT 2015 AND RULE 3 OF BALOCHISTAN SALES TAX ON SERVICES RULES, 2018

Brief Facts:

The appellant received advertising services in Baluchistan, withheld sales tax on those services, but paid the tax to the Punjab Revenue Authority, asserting that they were registered there and not a resident of Baluchistan. However, both the Assistant Commissioner and the Commissioner Appeals determined that the appellant was required to register with the BRA because they conducted economic activity and had a virtual presence in Baluchistan. As the appellant failed to register voluntarily under Section 25, the Assistant Commissioner compulsorily registered them under Section 27 of the Act.

Decision:

The LHC dismissed the appeal of the appellant on the basis that its economic activity took place in Baluchistan where it has virtual presence. Accordingly, the LHC found no infirmity in the impugned order-in-appeal concerning the obligation of the appellant regarding registration with the BRA.

Punjab Sales Tax on Services Act, 2012

A. Notifications:

1. **No. PRA/Misc.01/2024/795 dated May 22, 2025**

   Mandatory Registration of Service Providers under the Punjab Sales Tax on Services Act, 2012:

   Through the notification, PRA has directed that all licensing and permission-granting authorities in Punjab must ensure applicants involved in taxable services under the Second Schedule of the Punjab Sales Tax on Services Act, 2012, are duly registered with PRA before issuing or renewing any licenses or permissions in accordance with Notification No. PRA.Order.06/2012/752 dated April 14, 2025, issued under Section 76A of the Punjab Sales Tax on Services Act, 2012.

   The key compliance requirements are as follows:

   - Applicants providing taxable services must submit a valid Registration Certificate (PST-03) under Rule 3 of the Punjab Sales Tax on Services (Registration and De-registration) Rules, 2012.

   - Licensing authorities must obtain a copy of the PST-03 from the applicant and verify the certificate's authenticity and registration status using PRA's online Verification Portal. The certificate must be valid, active, and consistent with the applicant's legal name, business name, service type, and other details.

   - No license, permit, or renewal shall be granted without valid PRA registration for taxable service providers.

   - Any suspected cases of forgery or misrepresentation must be reported to PRA for legal action.

   - Verified certificates and online verification logs must be retained in applicant files for audit and inspection.

   - Applicants must be informed that PRA registration is mandatory and be guided to register under Sections 25, 26, or 27 of the Act before applying.

   Please follow the Link for the complete list of taxable services provided as Annex-B for classification and reference. For further assistance, PRA's Director (Policy) may be contacted at 042-99205478 or at the PRA office, 5-B Danepur Road, G.O.R. I, Lahore.

   Cooperation from all concerned is essential for promoting a transparent, compliant, and accountable business environment in Punjab.

Contact Us

For more information you may contact

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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.

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