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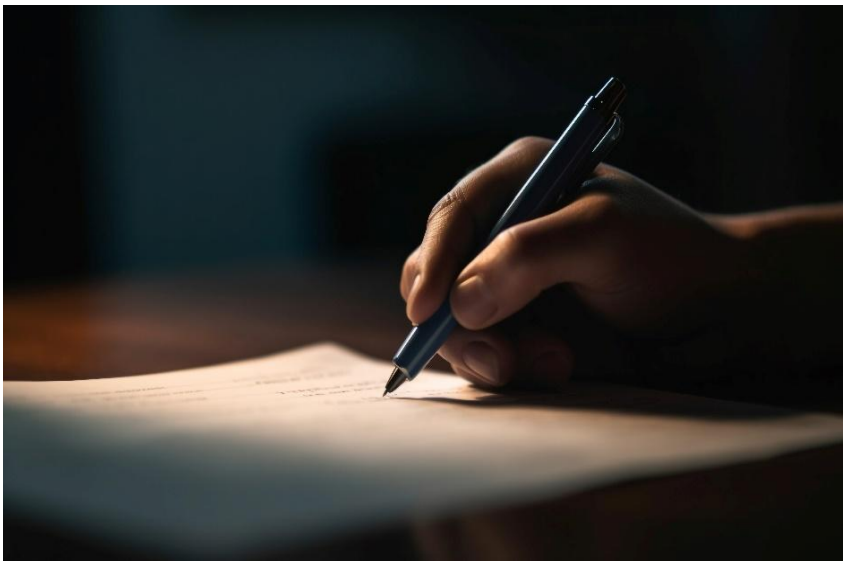
Tax Bulletin

November 2025

Tax

Foreword



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

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Karachi
November 28, 2025

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Income Tax Ordinance, 2001

A. Reported Decisions

1. COMPANIES WITH LOSSES CANNOT CARRY FORWARD MINIMUM TAX PAID BEFORE TAX YEAR 2022.

SUPREME COURT OF PAKISTAN

(2025) 132 Tax 383 = 2025 SCMR 1248

M/s KASSIM TEXTILE MILLS (PVT.) LIMITED AND OTHERS
VS
FEDERAL BOARD OF REVENUE

APPLICABLE LAW:

Sections 4, 113, 113(1), 113(2)(c), 120, and Part I, Division II of the First Schedule of the Income Tax Ordinance, 2001.

Brief facts:

Kassim Textile Mills and others (the Petitioners) had declared losses in tax years 2007–2008 but had paid minimum tax under section 113(1) of the Ordinance.

In tax year 2009, they sought to carry forward and adjust that minimum tax as a credit under section 113(2)(c).

The tax authorities disallowed the adjustment, arguing that no tax was payable, hence no "excess" tax existed to be carried forward.

CIRA and ATIR ruled in favor of petitioners.

Sindh High Court reversed those findings and sided with the tax department. Lahore High Court and Islamabad High Court took contrary views, allowing such adjustments. This led to conflicting High Court judgments across provinces and hence petitions filed before Supreme Court.

Petitioners Arguments:

Section 113(2)(c) is a beneficial provision intended to provide relief to taxpayers, especially loss-making companies facing liquidity issues. Therefore, it should be interpreted liberally in favor of the taxpayer.

Where the "actual tax payable" is zero, the entire minimum tax paid constitutes an "excess" over zero, making it eligible for carry forward. Reliance placed on FBR Circular No. 17/2004, which stated the amendment was meant to help companies, especially "with more turnover and low margin of profit," by allowing the carry forward of minimum tax.

Respondents Arguments:

Fiscal statutes must be interpreted strictly and literally. The plain language of Section 113(2)(c) as it stood at the time required that the minimum tax must exceed the "actual tax payable" to create an "excess" for carry forward.

If the "actual tax payable" is zero (due to losses), there is no quantum of tax from which an "excess" can be calculated. Therefore, the condition, for carry prior to the amendment made through the Finance Act 2021 is not met. The Finance Act, 2021's amendment, which explicitly allowed carry-forward even when no tax is payable, was a change in the law. It applied prospectively and could not be used to interpret the prior law retrospectively.

The law was clear and unambiguous, leaving no room for judicial interpretation, equity, or the insertion of words to extend the benefit to a situation not explicitly covered.

An administrative circular issued by the FBR cannot override the explicit and clear language of the statute.

Decision:

- The Supreme Court dismissed the appeals of the taxpayers and allowed the appeals of the tax department, thereby upholding the judgement of the SHC and reversing the judgements of the LHC and IHC and held that for tax years prior to the amendment made through the Finance Act, 2021, the carry forward and adjustment of minimum tax under Section 113(2)(c) was not permissible in cases where the taxpayer had no "actual tax payable" due to declared losses.

- The phrase "exceeds the actual tax payable" in section 113(2)(c) was clear and unambiguous. It logically presupposes that some positive amount of tax is payable to calculate an "excess." Where tax payable is zero, no excess arises.

- The Court reiterated the settled principle that "tax and equity are strangers." Courts cannot read equity or fairness into a taxing provision when the statutory language is clear.

- The Court ruled that the FBR Circular No. 17/2004 did not expand the scope of the law. It merely explained the provision and could not override the explicit statutory text.

2. A FINDING NOT CHALLENGED BEFORE THE HIGH COURT IS DEEMED TO HAVE ATTAINED FINALITY. THE COURT CANNOT ADJUDICATE ON AN ISSUE THAT WAS NOT FORMALLY RAISED.

LAHORE HIGH COURT

2025 PTD 137 = (2025) 132 TAX 502

COMMISSIONER INLAND REVENUE, DISTRICT ZONE, REGIONAL TAX OFFICE, RAWALPINDI
VS
SH. IKRAM ELLAHI AND 2 OTHERS

APPLICABLE LAW:

Sections 111, 111(1), 111(1)(b), 111(1)(d), 111(1)(d)(i), 113A, 115(4), 122(5), and 133(5) of the Income Tax Ordinance, 2001.

Brief facts:

During audit proceeding for tax year 2010, the tax department found discrepancies between the taxpayer's bank statements and tax filings. A show-cause notice was issued, and subsequently, the assessment was amended to add the amount under Section 111(1)(d) of the Ordinance, creating a large tax demand.

The ATIR ultimately vacated the order and deleted the entire additions. The tax department then filed this reference in the High Court.

Appellant Arguments:

The tax department (Applicant) argued that the Tribunal was wrong to delete the addition merely because the wrong sub-section of the law was cited. They contended that even if section 111(1)(d) was incorrectly mentioned, the facts of the case (unexplained bank credits) actually fell under Section 111(1)(b). Therefore, the taxpayer should not be allowed to benefit from a mere technicality and keep the "evaded tax". The unexplained credits in the bank account clearly attracted addition under Section 111(1)(b), and the addition should not have been deleted solely because a different subsection was mentioned in the order.

Respondents Arguments:

Section 111(1)(d) was inserted into the law via the Finance Act, 2011, and was effective prospectively from July 1, 2011. Since the tax year in question was 2010, applying this provision was illegal and retrospective.

ATIR's order, emphasizing that the department had failed to challenge the core finding on retrospectivity in its reference application, thus allowing that finding to attain finality.

Decision:

The Lahore High Court dismissed the tax department's reference application, thereby upholding the ATIR's order which had deleted the addition.

The department did not include a specific question in its reference application challenging the ATIR's crucial finding that Section 111(1)(d) could not be applied retrospectively to tax year 2010. A finding not challenged before the High Court is deemed to have attained finality. The Court cannot adjudicate on an issue that was not formally raised.

Section 111(1)(d) was introduced by the Finance Act, 2011, and came into force on July 1, 2011. The tax year under assessment was 2010, which ended on June 30, 2010. As a fundamental principle, tax statutes operate prospectively unless the legislature explicitly provides for retrospective application. There was no such express intent here, so applying this provision to a prior tax year was illegal.

The case specifically involved "suppression of sales," which falls squarely under the ambit of the more specific provision, Section 111(1)(d). Furthermore, this clause taxes the "amount chargeable to tax," meaning the net income that has escaped assessment, not the gross sales value. The Court affirmed that the taxpayer's liability is on the net amount, not the gross turnover.

3. A STAY ORDER AGAINST TAX RECOVERY CANNOT BE VACATED AUTOMATICALLY AFTER A STATUTORY PERIOD.

LAHORE HIGH COURT

2025 TAX 448

JUBILEE SPINNING & WEAVING MILLS
VS
APPELLATE TRIBUNAL INLAND REVENUE AND OTHERS

APPLICABLE LAW:

Sections: 128, 130, 131, 131(5), and 132 of the Income Tax Ordinance, 2001.

Brief facts:

The petitioner, a taxpayer, had been granted a stay by the ATIR against the recovery of a disputed tax. After the initial stay period and a 60-day extension expired, the petitioner applied for a further extension. The ATIR dismissed this application and automatically vacated the stay based on an administrative circular from the Chief Justice's office, which directed that stays be vacated automatically after their statutory period.

The ATIR's order referenced a circular stating that a stay "shall be deemed vacated automatically upon the expiry of the legally stipulated period" and that presiding officers "shall not extend stay orders beyond the period stipulated under the law." The ATIR applied this circular strictly, without examining the reasons why the main appeal had not been decided.

Being aggrieved, the petitioner filed petition before LHC.

Appellant Arguments:

The petitioner argued that it was unjust for the stay to be vacated automatically when the delay in deciding the main appeal was not their fault. They were conscientiously prosecuting their case.

The petitioner contended that the ATIR failed to exercise its independent judicial discretion by blindly following an administrative circular instead of the statute and established legal principles.

The petitioner invoked the principle that a taxpayer has a right to a fair adjudication of a disputed tax liability by an independent forum before recovery is enforced.

Respondents Arguments:

The respondents' position, supported by the circular, was that the statute (section 131(5) of the Ordinance,) stipulates a maximum initial stay period of 90 days, implying that extensions beyond this are not permitted.

Respondent defended ATIR's order by stating it was merely complying with the administrative directive from the superior judiciary to automatically vacate stays after the statutory period.

Decision:

The LHC allowed the writ petition. It set aside the ATIR's order that had vacated the stay.

The LHC remanded the petitioner's application for an extension of stay back to the ATIR for a fresh decision based on the correct legal principles. Barred any coercive action against the petitioner until the ATIR makes its new decision.

Directed the Federal Government to frame proper rules for case management within 30 days.

The LHC held that an extension of a stay order beyond the initial period is not automatic. The ATIR must actively intervene and decide on an application for extension.

The key criterion for granting an extension is determining which party is responsible for the delay in the appeal's disposal. If the delay is not the taxpayer's fault, the principle of *actus curiae neminem gravabit* (the act of the court shall prejudice no one) applies, and the stay should be extended to protect the taxpayer from prejudice caused by the system's delay.

The ATIR is a judicial body bound by the statute. Its jurisdiction cannot be constrained, altered, or impaired by administrative circulars. It must exercise independent judicial discretion as granted by the law.

4. PLASTIC PACKAGING FILMS ARE NOT FAST MOVING CONSUMER GOODS

SUPREME COURT OF PAKISTAN

2025 PTD 1558

THE COMMISSIONER OF INLAND REVENUE, PESHAWAR
VS.
M/S SUFI TAHIR NADEEM

APPLICABLE LAW:

Sections 2(13AB), 2(22A), 113, 122(1), 122(5A), and 177 of the Income Tax Ordinance, 2001.

Brief facts:

The taxpayer (respondent), a distributor of plastic packaging films (BOPP, PET, CPP), declared his business turnover and paid minimum tax under Section 113 of the Income Tax Ordinance, 2001. The respondent claimed its products were Fast Moving Consumer Goods (FMCG), which would qualify for a reduced tax rate of 0.2%. The tax department disagreed, classifying the films as industrial inputs and applying the standard 1% minimum tax rate. The taxpayer successfully appealed this decision to the ATIR and the Peshawar High Court, which accepted that the films met the FMCG criteria of high turnover and frequent purchase. Being aggrieved, the tax department filed appeal before the Supreme Court.

Appellant Arguments:

The department argued that the packaging films are not "consumer goods" as defined in the law. They are not consumed directly by an end-user but are used as raw materials or inputs in the industrial process of packaging other products.

The goods are sold in the industrial or wholesale market to manufacturers and packagers, not supplied in the retail market to meet the daily demand of a consumer, as required by the FMCG definition.

The department also contended that these films are "durable goods," which were explicitly excluded from the FMCG definition by an amendment in the Finance Act, 2017.

Respondents Arguments:

The taxpayer argued that the films met the criteria laid out in prior ATIR's judgments for FMCGs: they had frequent purchase, high turnover, and an extensive sales network.

These films are widely and commonly used in packaging a vast array of everyday consumer items, implying they should be considered part of the FMCG chain.

Decision:

The Supreme Court allowed the appeals filed by the tax department. It set aside the judgment of the Peshawar High Court and held that the packaging films in question do not qualify as Fast Moving Consumer Goods. Consequently, the higher 1% minimum tax rate under Section 113 was applicable.
The SC focused on the definition in Section 2(13AB), which states that consumer goods are those "that are consumed by the end consumer rather than used in the production of another good." The packaging films are not consumed by the end consumer; they are used in the production (i.e., packaging) of another good. The end consumer buys the biscuit, not the plastic film it is wrapped in.
The SC also applied the definition in Section 2(22A), which requires goods to be "supplied in retail market as per daily demand of a consumer." The Court found that these films are supplied in the industrial or wholesale market, not the retail market, for use in manufacturing and packaging processes.
The SC looked at the substance and primary use of the goods, rather than just their turnover frequency. The essential character of the films is that of an industrial input or packaging material, not a final consumer product.

The SC additionally noted that the films are durable in nature, reinforcing their exclusion from the FMCG category post Finance Act, 2017.

5. SOE'S APPEALS BEFORE THE ATIR WERE INDEED MAINTAINABLE

LAHORE HIGH COURT,

2025 PTD 1596 = (2025) 132 TAX 299

PAKISTAN RAILWAY ADVISORY AND CONSULTANCY SERVICES
VS
ASSISTANT COMMISSIONER, ETC.

APPLICABLE LAW:

Sections 2(11), 2(134A), 133, and 134A(1) of the Income Tax Ordinance, 2001.

Brief facts:

Pakistan Railway Advisory and Consultancy Services, a State-Owned Enterprise (SOE), filed appeals before the ATIR against an order from the CIRA. The ATIR dismissed these appeals without hearing the merits, declaring them non-maintainable. The ATIR's decision was likely based on a special dispute resolution process for SOEs under Section 134A of the Ordinance, which involves a government committee. The SOE then filed this reference application before the LHC, challenging the ATIR's decision on the maintainability of its appeals.

Appellant (SOE) Arguments:

The SOE argued that it had a clear statutory right to appeal to the ATIR under the second proviso to Section 134A(2) of the Ordinance.

This right is activated when sub-section (11) of Section 134A is applicable. Sub-section (11) applies when a special government Committee, formed to resolve the SOE's tax dispute, fails to decide the matter within 60 days and is subsequently dissolved. The SOE contended that this was precisely what had happened in its case.

The SOE argued that the law prescribes a sequence for appeals: first to the ATIR then the High Court, and finally the Supreme Court. By filing an appeal with the ATIR, it was following this mandated sequence.

Respondents Arguments:

The tax department objected to the maintainability of the SOE's appeals before the ATIR, arguing that the special procedure under Section 134A precluded a standard appeal.

Decision:

The Lahore High Court allowed the reference application filed by the SOE:

- Set aside the impugned order of the ATIR that had dismissed the appeals.
- Held that the SOE's appeals before the ATIR were indeed maintainable.
- Remanded the case back to the ATIR with a direction to hear and decide the appeals afresh on their merits.

The Court emphasized that the second proviso to Section 134A(2) grants an SOE the right to appeal to the ATIR (or other higher forums) specifically "where sub-section (11) is applicable." The Court clarified that sub-section (11) becomes applicable when the special Committee, constituted to resolve the dispute, fails to decide the matter within 60 days and is dissolved by the Federal Board of Revenue.

The phrase "as the case may be" in the proviso was interpreted to mean that the SOE must follow the statutory hierarchy of forums. The first step in this hierarchy after the Committee's dissolution is to file an appeal with the ATIR. Since the Committee in this case had failed to decide within the stipulated time (making sub-section (11) applicable), the SOE had an "unequivocal right" to file its appeal with the ATIR as the next appropriate forum. Therefore, the ATIR erred in law by dismissing the appeals as non-maintainable.

Sales Tax Act, 1990

A. Notifications

1. S.R.O. 1963(I)/2025 dated October 15, 2025

Through this SRO, FBR has mandated electronic monitoring of production for all registered textile-spinning units via video analytics under Rule 150ZQR of Chapter XIV-BA of the Sales Tax Rules, 2006, effective from November 1, 2025. Recently, an STGO has also been issued on November 20, 2025 whereby all textile spinning units have been directed to install the necessary hardware and software for this video analytics solution by December 31, 2025.

2. S.RO. 2071(I)/2025 dated November 5, 2025

As per sub-clause (g) of clause (43A) of section 2 of the ST Act, Tier 1 retailers include a retailer whose deductible withholding tax under sections 236G or 236H of the Income Tax Ordinance, 2001 during the immediately preceding twelve consecutive months has exceeded the threshold as may be specified by the Board through notification.

Through this SRO, FBR has made amendments in Rule 150Q of the Sales Tax Rules, 2006 whereby a new sub-rule (3) has been inserted prescribing the threshold of deductible withholding tax under sections 236G or 236H of the Income Tax Ordinance, 2001 as to be that exceeding Rs. 100,000 or Rs. 500,000, respectively during the immediately preceding period. The rule accordingly requires such retailers to integrate their businesses with the FBR system.

3. Sales Tax Circular No. 03 of 2025 dated October 22, 2025

FBR has issued Standard Operating Procedure for changing the NTN/STRN on industrial electricity or gas connections.

Under the new procedure, utility companies (DISCOs/GASCOs) cannot change the NTN/STRN unless the taxpayer first applies to the relevant Commissioner-IR. The Commissioner will verify the taxpayer's particulars including physical verification of the business premises and if satisfied, will formally direct the DISCO/GASCO to update the NTN/STRN. The utility company will make the change only upon receiving this recommendation.

B. Reported Decisions

1. PENALTY FOR POS NON-INTEGRATION CANNOT BE IMPOSED THROUGH SECTION 11 AND MUST BE ENFORCED STRICTLY UNDER THE SPECIFIC PENAL PROVISIONS OF SECTION 33 OF THE ACT.

2025 PTD 1509
LAHORE HIGH COURT

THE COMMISSIONER INLAND REVENUE
VS
M/S D-WATSON & ANOTHER

Applicable provisions: 3(9A), 2(43A), 40(C), 11, 33, 33(24) and 33(25) to the ST Act, 1990.

Brief Facts:

The instant case pertains to D-Watson and several other Tier-1 retailers who were legally required to integrate all their Point of Sale (POS) systems with the Federal Board of Revenue's computerized system for real-time reporting of sales under Sections 2(43A), 3(9A) and 40C of the ST Act, read with Rule 150E of the ST Rules. During a spot check, the department observed that some POS counters were not integrated therefore issued with show cause notices under section 11 of the ST Act and imposed penalties including disallowance of input tax under section 8B(6) and penalties under serial numbers 24 and 25 of section 33 of the ST Act. The adjudicating

authority and the Commissioner (Appeals) upheld the case.

Being aggrieved, the taxpayers challenged the orders before the Appellate Tribunal which set them aside. The department then filed multiple tax references before the Lahore High Court to determine whether Section 11 could be invoked for imposing penalties relating to non-integration of POS systems.

Decision:

The Court dismissed all the tax references in favour of the taxpayers and concluded the show cause notices and orders issued under Section 11 as ultra vires and without lawful authority.

The Court held that section 11 of the ST Act is a machinery provision designed only to detect and recover tax that is unpaid, short-paid, or erroneously refunded, and cannot be used to impose penalties for regulatory violations that do not involve a quantifiable tax shortfall.

The Court emphasized that penalties for non-integration of POS systems are specifically provided under section 33 at serial numbers 24 and 25 and must be enforced strictly under that provision following the appropriate adjudication procedure. Since section 33 of the ST Act creates liability but does not supply a recovery mechanism, the department cannot rely on Section 11 to fill that gap. The Court further applied the principles that penal statutes must be strictly interpreted and that special provisions override general ones.

2. RAID AND SEIZURE OF RECORD DECLARED UNLAWFUL BEING IN DEROGATION OF SECTION 40 OF THE ACT.

2025 TAX 422
LAHORE HIGH COURT

MALIK AMEER HAIDER SANGHA
VS
THE FEDERATION OF PAKISTAN

Applicable provisions: 40, 40(1), 40(2), 40B, 45B and 46 to the ST Act, 1990.

Brief Facts:

The petitioner, operating as a registered sole proprietorship named Sanga Brothers challenged the legality of a raid and seizure carried out by the Inland Revenue Department at his business premises. Although the department had initiated recovery proceedings earlier, those proceedings were stayed by the Appellate Tribunal. During the subsistence of the stay, the department obtained a search warrant that named two other entities; Allah Baksh Company and Sanga Petroleum but did not mention Sanga Brothers.

Despite this omission, the officers raided the premises shared by these entities and seized eight registers belonging to Sanga Brothers. The petitioner argued that Sanga Brothers is a separate and distinct business concern with a separate NTN and therefore a specific warrant was required. The petitioner further contended that no valid "reasons to believe" were disclosed to justify the warrant, that no independent witnesses were present during the search as required under Section 40(2) of the ST Act read with Section 103 of the Cr.P.C. and that the department falsely asserted supervision under section 40B without any lawful authorization by the FBR.

Decision:

The Court declared the raid and seizure unlawful and directed the respondents to immediately return the seized record and restrained them from using the seized material against the petitioner.

The Court held that the petition was maintainable under Article 199, as alternative statutory remedies did not cover challenges to procedural violations under Section 40 of the ST Act and the pending references before other benches involved distinct issues.

On merits, the Court found that the raid and seizure violated mandatory requirements of Section 40. The search warrant did not name Sanga Brothers despite it being a separate entity and the department failed to provide any lawful justification for relying on a warrant issued for other businesses. The

department also failed to demonstrate the existence of any pending proceedings or a valid appointment under Section 40B rendering the stated "reasons to believe" defective. Most critically, the raid was conducted without independent witnesses, contrary to the mandatory provisions of Section 40(2) of the ST Act and Section 103 of the Cr.P.C., as reaffirmed in binding precedents.

3. THE CORRECTION OF AN ERROR, BEING PURELY FACTUAL, FALLS WITHIN THE AMBIT OF SECTION 57 OF THE ST ACT.

2025 TAX 455
LAHORE HIGH COURT

M/S. AUTO CRAFT
VS.
APPELLATE TRIBUNAL INLAND REVENUE

Applicable provisions: 11, 47, 47(5) and 57 to the ST Act, 1990.

Brief Facts:

In the instant case, the applicant Ms. Auto Craft filed a sales tax Reference before the Lahore High Court against the Appellate Tribunal's order through which the Appellate Tribunal rectified its earlier decision under section 57 of the ST Act. The Tribunal had originally set aside an assessment order on the ground that show cause notice (SCN) was time-barred. The tax department later moved a rectification application pointing out that the SCN had in fact been issued within the time limits and that the Tribunal's earlier conclusion regarding limitation was founded entirely on the factual mistake.

Upon verification of the record, the Tribunal rectified its earlier order and restored the departmental appeal with the directions to adjudication on merits. The applicant argued before the High Court that the Tribunal had exceeded its jurisdiction and acted as an appellate forum over its own final order, whereas respondents contended that the correction was strictly within the scope of rectification powers meant to address mistakes apparent on the face of the record.

Decision:

The Court dismissed the reference application and upheld the Tribunal's rectification order. The Court held that the incorrect recording of the SCN date was a clear and manifest error directly affecting the limitation analysis and correcting it fell squarely within the ambit of Section 57 which permits rectification of mistakes "floating on the surface of the record."

The Court emphasized that the power of rectification does not amount to a review or rehearing on merits; rather, it exists to correct obvious factual errors that would otherwise lead to a miscarriage of justice. Relying on established jurisprudence, the Court noted that a mistake apparent on the record must be self-evident, material and not requiring elaborate discussion therefore, criteria fully met in this case. Once corrected, the legal conclusion regarding limitation changed entirely justifying the Tribunal's intervention. Accordingly, the question of law was answered against the applicant, and the reference was dismissed with a direction to transmit the order to the Tribunal under Section 47(5) of the ST Act.

4. MERE SHIFTING OF FINISHINED GOODS FROM FACTORY TO WAREHOUSES DOES NOT PER SE MEAN THAT SALES TAX IS PAYABLE UNLESS CONCEPT OF SALE, SUPPLY AND TAXABLE ACTIVITIES ARE ATTRACTED.

2025 TAX 479
ISLAMABAD HIGH COURT

FAUJI FERTILIZER COMPANY LIMITED
VS
THE FEDERATION OF PAKISTAN ETC.

Applicable provisions: Section 9 to the Sales Tax Rules, 2006 (the Rules)

Brief facts:

Fauji Fertilizer Company Limited, a registered taxpayer engaged in manufacturing and selling fertilizers, stored its finished goods at its factory and various warehouses. The company had informed the tax department of its warehouses through a letter. Despite this, the department issued a notice under

Rule 9 of the Sales Tax Rules, 2006 and alleged that shifting goods to unspecified warehouses could be treated as a "sale," attracting sales tax. The petitioner challenged the notice on the grounds that Rule 9 had no relevance to such allegations hence, the notice was vague, mala fide and issued without jurisdiction. The respondents failed to demonstrate how the movement of goods to warehouses constituted a taxable sale or supply.

Decision:

The Court set aside the notice issued to the petitioner under Rule 9 of the ST Rules and declared it to be issued without lawful authority and jurisdiction.

The Court held that Rule 9 only governs manual filing of applications related to registration and cannot be invoked to question the movement of goods or allege taxable supplies.

It was further held that the transfer of finished goods to warehouses whether notified or not, does not constitute a "sale" or "taxable activity" under the ST Act. As the department failed to identify any statutory violation or justify the basis of the notice, the Court held the petition maintainable under Article 199.

5. NO INPUT TAX CREDIT CAN BE CLAIMED FOR GOODS SPECIFIED UNDER SECTION 8(1)(h) WHICH ARE NOT MEANT FOR DIRECT USE IN PRODUCTION AND MANUFACTURE OF TAXABLE GOODS.

2025 TAX 498
SINDH HIGH COURT

ADAM SUGAR MILLS LIMITED
VS
THE APPELLATE TRIBUNAL INLAND REVENUE

Applicable provisions: Section 8 to the Sales Tax Act, 1990 (the Act)

Brief facts:

Ms. Adam Sugar Mills Limited, a registered manufacturer of sugar claimed input tax adjustments on the purchase of cement, steel, paint, wires, cables and similar items. The tax authorities disallowed the input tax on the ground that these items were used for construction and were therefore barred under Section 8(1)(h) of the ST Act.

The Appellate Tribunal upheld the disallowance whereby the Applicant challenged the decision and filed Sales Tax Reference before the Sindh High Court. The Applicant argued that the items fell within the exception stated in Section 8(1)(h) of the Act asserting that they were destined for "direct use in the production or manufacture" of taxable goods.

Decision:

The Court dismissed the reference application and upheld the Tribunal's decision.

The Court held that Section 8(1)(h) of the Act clearly prohibits input tax on goods used in or attached to immovable property including building materials, paints, wires and cables. The statutory exception applies only where the goods are either (i) acquired for sale or resale, or (ii) directly used as raw materials in the manufacturing of taxable goods. Since the disputed items were used for construction and not as raw materials in sugar production, the Applicant was not entitled to input tax credit.

The Court further noted that once the core legal issue was resolved against the applicant, it was unnecessary to examine the remaining procedural questions.

6. NO HARM/LOSS OF LIBERTY THEREFORE PRE-ARREST BAIL IS DECLINED.

2025 TAX 512
LAHORE HIGH COURT

SIKANDAR HAYAT
VS
THE STATE, ETC.

Applicable provisions: Section 2(9), 2(14)(a), 2(33A), 2(37), 3, 6, 7, 8(1)(a), 8(1)(ca), 8(1)(caa), 8(1)(d), 8A, 22, 23, 25, 26, 34(1)(c), 37A, 37B, 73 to the Sales Tax Act, 1990 (the Act)

Brief facts:

The petitioner, proprietor of Ms. Hayat Trading Company registered under the ST Act, sought pre-arrest bail in FIR which alleged large-scale tax fraud involving the issuance of flying/fake sales and purchase invoices without any underlying taxable supplies which enabled fraudulent input tax adjustments and causing a provisional loss to the exchequer.

An adjudication order under Section 11 of the Act had been passed and the petitioner's monthly returns and registration documents were examined by the authorities. The petitioner argued that he was not involved in the fraudulent transactions and that it was one of his employees, who had misused his credentials. He further contended that the allegations were based on documentary evidences and therefore did not require custodial interrogation.

Decision:

The Court dismissed the petition and declined pre-arrest bail concluding that no mala fides were apparent on the part of the department and that the case fell within recognized exceptions to the grant of pre-arrest bail.

The Court held that the material collected including registration records, tax returns and the adjudication order reasonably connected the petitioner to the alleged issuance of fake invoices which squarely constitutes "tax fraud" under Section 2(37) of the ST Act.

The Court rejected the attempt to shift blame to an employee observing that a registered person bears legal responsibility for the accuracy and legitimacy of tax returns filed under his name. The Court found that custodial interrogation was necessary to recover electronic devices and data critical to investigating a complex white-collar tax fraud scheme. It was further noted that granting bail at this stage posed a strong risk of evidence tampering and would frustrate the investigation.

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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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