MANDVIWALLA & ZAFAR
ADVOCATES

CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Tuesday, 29 September 2026

Upload Window: 22 to 29 September 2026 (Sunday 27 September excluded)

FCC: 2 judgments | SC: 5 judgments | LHC: 4 judgments | SHC: 4 judgments | IHC: no new entries

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Operative orders quoted verbatim. Legal principles extracted directly from judgment text.

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Coverage and exclusions: this issue covers the seven working days from 22 to 29 September 2026. It was an exceptionally heavy week. Sixty-six candidates were identified across the five courts — twenty-one Supreme Court uploads (of which fifteen carry the endorsement 'Approved for Reporting'), six Federal Constitutional Court, twenty-five Lahore High Court approved for reporting, eighteen Sindh High Court approved for reporting, and nil from the Islamabad High Court. Fifteen have been curated for digest. (a) Six Supreme Court judgments uploaded on 24 September are expressly marked NOT APPROVED FOR REPORTING and have accordingly been excluded: Crl.P.L.A. No. 1385 of 2023 (Mudassar Ali Khan), Crl.P.L.A. No. 22-Q of 2023 (Jamshair), J.P. No. 452 of 2022 (Nazim Ali), J.P. No. 356 of 2023 (Qalandar Bux), J.P. No. 501 of 2020 (Umar Hayat) and Crl.P.L.A. No. 1381 of 2018 (Muhammad Imran). (b) Supreme Court items approved for reporting but not carried into this issue, being largely fact-bound, are Crl.P.L.A. No. 187-P of 2026 (Nadar Khan, bail after arrest), Crl.P.L.A. No. 1448 of 2026 (Farman Ali Khan, pre-arrest bail), C.A. No. 51-L of 2025 (Mst. Shahnaz Kausar, specific performance), C.P.L.A. No. 2413-L of 2025 (Kalu through LRs), C.P.L.A. No. 4459 of 2023 (Collector of Customs, Peshawar, confiscation of vehicle), C.P.L.A. No. 155-Q of 2022 (Abdul Latif, hiba), Crl.P.L.A. No. 1200 of 2026 (Zeeshan Majeed Bhatti, bail), J.P. No. 196 of 2019 (Muhammad Raqeel) and Crl.P.L.A. No. 356-L of 2016 (Mujahid alias Mujahidi); each is available on request. (c) Federal Constitutional Court items not carried are F.C.P.L.A. No. 423 of 2025 (Muhammad Ashraf Rana, correction of a revenue entry after forty-four years), F.C.P.L.A. No. 172-L of 2026 (Javed Iqbal Rana, setting aside an ex-parte decree), C.P.L.A. No. 9-Q of 2026 (Dr. Fouzia, rejection of an online application on the ground of overage) and C.P.L.A. No. 392-L of 2025 (Province of Punjab v. Dr. Munir Ahmad Malik, incentive allowance). The last two were uploaded on 21 and 22 September respectively; C.P.L.A. No. 392-L of 2025 appeared after the scan for the briefing of 21 September had closed and has been swept in here. (d) A caution on the text layer of one document: the PDF of C.P.L.A. Nos. 1011 and 1113 of 2026 (digested below) carries a scrambled, apparently OCR-derived text layer in which lines and clauses appear out of sequence. The passages quoted in that entry have been individually checked against the source and are cleanly contained, but practitioners citing the judgment should work from the printed or certified copy rather than from an extracted text. (e) Lahore High Court items approved for reporting but not curated include Crl. Misc. 53729 of 2026 (2026 LHC 6166), Criminal Proceedings 80586 of 2022 (2026 LHC 6160), C.Ref. (Customs) 70795 of 2023 (2026 LHC 6152), Criminal Proceedings 48651 of 2026 (2026 LHC 6138), S.T.R. 185185 of 2018 (2026 LHC 6089), C.Ref. (Customs) 25 of 2026 (2026 LHC 6041), I.T.R. 100 of 2025 (2026 LHC 6033), S.T.R. 95 of 2025 (2026 LHC 6022), S.T.R. 61 of 2025 (2026 LHC 6015), Civil Revision 657 of 2024 (2026 LHC 6009), Crl. Revision 49478 of 2026 (2026 LHC 5998, documentary proof of a juvenile's age), Tax (Writ) 84103 of 2023 (2026 LHC 5991), F.A.O. 71205 of 2017 (2026 LHC 5986), Crl. Revision 49928 of 2026 (2026 LHC 5980), W.P. 6742 of 2024 (2026 LHC 5974), W.P. 294 of 2021 (2026 LHC 5968), Transport 28002 of 2021 (2026 LHC 5956), W.P. 16990 of 2022 (2026 LHC 5946), Crl. Appeal 322 of 2020 (2026 LHC 5927), Murder Reference 43 of 2023 (2026 LHC 5902) and Murder Reference 232 of 2022 (2026 LHC 5880); two 21 September stragglers, R.F.A. 83 of 2021 (2026 LHC 5870) and R.F.A. 203 of 2022 (2026 LHC 5860), have also been swept and are available on request. (f) Sindh High Court items approved for reporting but not curated include Spl. Cus. Ref. A. No. 642 of 2020 (2026 SHC KHI 1868), Criminal Appeal No. 9 of 2026 (2026 SHC MPK 1872), Spl. Cus. Ref. A. No. 661 of 2023 (2026 SHC KHI 1869), Const. P. No. S-109 of 2026 (2026 SHC KHI 1864), Const. P. No. S-1269 of 2023 (2026 SHC KHI 1865), Spl. Cus. Ref. A. No. 738 of 2024 (2026 SHC KHI 1870), Spl. Sales Tax Ref. A. Nos. 53 of 2024, 6 of 2025, 45 of 2026 and 1301 of 2023 (2026 SHC KHI 1840, 1841, 1842 and 1839), Spl. Cus. Ref. A. No. 19 of 2017 (2026 SHC KHI 1836), Const. P. No. 6141 of 2026 (2026 SHC KHI 1863), Spl. Cus. Ref. A. No. 51 of 2024 (2026 SHC KHI 1816 and 1860) and I.T.R.A. No. 242 of 2024 (2026 SHC KHI 1833). (g) No Islamabad High Court judgment met the reporting threshold. That Court's public listing of reported judgments still shows nothing later than 18 March 2026, a gap now of a little over six months. (h) The long-standing portal defect in Const. P. No. 875 of 2025 (National Bank of Pakistan v. Mirza Hamayun, 2026 SHC KHI 1583) remains unresolved, as does the mismatch noted in the briefing of 21 September affecting the listing for Spl. Sales Tax Ref. A. No. 135 of 2025 (Sindh Revenue Board v. The Coca-Cola Export Corporation).

Federal Constitutional Court of Pakistan

2 judgments

PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010 SS. 2(H), 3, 4, 8, 9, 12; CONSTITUTION OF PAKISTAN, 1973 ARTS. 45, 48(2), 189, 199 — 'HARASSMENT' UNDER SECTION 2(H) IS CONFINED TO CONDUCT SEXUAL IN NATURE; THE SUPREME COURT'S WIDER VIEW IN RAJA TANVEER SAFDAR AND MUHAMMAD DIN RESPECTFULLY NOT FOLLOWED

Usman Shahid v. Nadia Sarwar and others; Aqeel Abbas v. Nadia Sarwar and four others

PETITIONS CONVERTED INTO APPEALS AND ALLOWED; JUDGMENT OF THE ISLAMABAD HIGH COURT SET ASIDE; APPROVED FOR REPORTING

C.P.L.A. Nos. 1011 and 1113 of 2026 (converted into appeals), Federal Constitutional Court of Pakistan (against the judgment dated 31.12.2025 of the Islamabad High Court in W.P. No. 105 of 2025) · Bench: Amin-ud-Din Khan, Chief Justice, Ali Baqar Najafi and Syed Arshad Hussain Shah, JJ (judgment by Ali Baqar Najafi, J) · Decided: Heard 23.07.2026; the uploaded copy does not state the date of announcement · Uploaded: 28.09.2026

FACTS

The complainant was employed in the National Bank of Pakistan from 2008. The petitioners, one of them engaged as Senior Relationship Manager at about the same time, were alleged to have harassed her by misusing their authority — requiring her to remain in the office after hours, demanding disclosure of the reasons for domestic and medical leave, interfering in her work, recording adverse remarks against her performance and using objectionable words. She approached the Divisional Head by telephone and email on 26.03.2013, complained to the President of the Bank on 02.07.2013, and on 03.09.2013 filed a complaint before the Federal Ombudsperson under the Act of 2010. The Ombudsperson allowed the complaint and imposed the major penalty of compulsory retirement under section 4(4)(ii)(b). On representations under section 9, the President of Pakistan set aside that order on 14.02.2014, holding the objectionable words unproved and the allegation concerning a sketch to have been raised for the first time in the affidavit tendered on 28.10.2013, and directed the Bank to issue censure under section 4(4)(i)(a). The complainant challenged that order under Article 199; the Islamabad High Court set aside the President's order and restored the Ombudsperson's decision in toto.

LEGAL ISSUE

Whether 'harassment' as defined in section 2(h) of the Protection against Harassment of Women at the Workplace Act, 2010 is confined to conduct sexual in nature, or extends to any conduct causing interference with work performance or creating an intimidating, hostile or offensive work environment; and the scope of judicial review under Article 199 of an order of the President passed on a representation under section 9.

HOLDING

The appeals were allowed. The definition in section 2(h) is exhaustive and not extensive: an act, conduct or attitude must be sexual in nature to fall within it. Every sexual harassment is a harassment, but every harassment is not sexual harassment; misdemeanour or conduct unbecoming at the workplace may generically be classified as harassment but is not actionable under the Act of 2010 unless inherently demonstrated or demonstrable of its sexual nature. Any other interpretation would amount to reading into the provision. The Court noted the view in Nadia Naz (PLD 2021 SC 784), its modification in Raja Tanveer Safdar (PLD 2024 SC 795) and its affirmation in Muhammad Din (PLD 2025 SC 354), by which the element of a sexual component was disregarded, and, with due respect, declined to agree with that observation, exercising its powers under Article 189 of the Constitution and proceeding on the very definition in section 2(h). As to the constitutional question, an order of the President passed without the recommendation of the Prime Minister is not to be interfered with as a matter of course in certiorari; the scope of interference is confined to non-reading and misreading of evidence, erroneous assumption of facts, misapplication of law, excess or abuse of jurisdiction and arbitrary exercise of power, and the High Court will not substitute its own findings on facts.

LEGAL SIGNIFICANCE

A judgment of considerable consequence and, plainly, one that will be debated. The Federal Constitutional Court has declined to follow the Supreme Court's broader construction of section 2(h) in Raja Tanveer Safdar and Muhammad Din, and has restored the narrower reading confining actionable harassment under the Act of 2010 to conduct sexual in nature, with non-sexual workplace misconduct left to ordinary departmental discipline. Practitioners advising complainants must now consider the forum question at the outset: a grievance about abuse of authority or a hostile environment without a sexual dimension will, on this view, not lie before the Ombudsperson. The judgment also contains a compact account of the machinery of the Act — the inquiry committee under section 3, the procedure under section 4, appeal to the Ombudsperson under section 6, the Ombudsperson's powers under sections 8 and 10, and representation to the President or Governor under section 9 — which is a convenient reference in its own right, as is the reiteration that section 12 makes the Act additional to and not in derogation of other laws. Given the divergence of view between the two apex forums, the point should be regarded as open and argued as such.

LEGAL PROPOSITIONS (VERBATIM)

— *Any other interpretation would be amounting to reading into the said provision of the Act, 2010.*

— *A special law is for special situations if attracted and cannot be applied in the general context.*

— *To prove a sexual harassment, a bare minimum requirement is the impartial, credible material, capable of surviving the test of reasonableness and it must be reinforced with convincing/independent evidence.*

— *An offensive behaviour must be reported to the trust worthy person but mere non-reporting immediately would not effect the merits of the case.*

LEGAL PRINCIPLES EXPOUNDED

The definition of harassment in section 2(h) is exhaustive and not extensive; the conduct must be sexual in nature to be actionable under the Act of 2010.

Source: *An act, conduct or attitude has to be sexual in nature, if it is to be covered under the definition of harassment for the purpose of this act.*

Authority: *Section 2(h), Protection against Harassment of Women at the Workplace Act, 2010*

The Act of 2010 protects the honour, modesty and respect of women at the workplace by virtue of their gender, and does not confer a preferred treatment undermining the dignity of their counterparts.

Source: *The Act of 2010, has intended to provide smooth working environment for the women by protecting their honour, modesty and respect by virtue of their gender.*

Authority: *Preamble and section 2(h), Protection against Harassment of Women at the Workplace Act, 2010*

In certiorari the court exercises supervisory control to ensure that the tribunal observed the law; it will not substitute its own findings on facts.

Source: *On the question of jurisdiction under Certiorari, the court exercises a supervisory control to ensure that the Tribunal observed law but the High Court will not substitute its findings on facts and it will only interfere if a Tribunal exercises an unlawful authority, i.e. decided without evidence or failed to follow the judicial norms like violation of the principle of natural justice as rightly held in Rahim Shah*

Authority: *Rahim Shah v. The Chief Election Commissioner of Pakistan (PLD 1973 SC 24); Muhammad Lehrasab Khan v. Mst. Aqeel-un-Nisa (2001 SCMR 338)*

OPERATIVE ORDER

In view of above discussion, the above petitions are converted into appeal(s) and allowed. The impugned judgment dated 31.12.2024 passed by the Islamabad High Court, Islamabad is set aside.

■ **View Full Judgment**

INDUSTRIAL RELATIONS ACT, 2012 SS. 3(C), 7(B), 8(1)(D) AND PROVISO — THE REMAINING TWENTY-FIVE PER CENT OF A TRADE UNION EXECUTIVE NEED NOT BE WORKMEN; THE PROVISO IS ENABLING AND NOT COMPULSORY, AND THE CHOICE WHETHER TO AVAIL OF IT RESTS WITH THE MEMBERS THROUGH THE UNION'S CONSTITUTION

Muhammad Akhlaq Khan v. National Industrial Relations Commission and others

LEAVE GRANTED AND APPEAL ALLOWED; JUDGMENT OF THE HIGH COURT OF SINDH SET ASIDE AND THE CONSTITUTIONAL PETITION ALLOWED IN DECLARATORY TERMS; APPROVED FOR REPORTING

C.P.L.A. No. 1285-K of 2023, Federal Constitutional Court of Pakistan (against the judgment dated 29.08.2023 of the High Court of Sindh, Karachi in C.P. No. D-4067 of 2023) · Bench: Syed Hasan Azhar Rizvi and Muhammad Karim Khan Agha, JJ (judgment by Muhammad Karim Khan Agha, J) · Decided: 25.09.2026 (heard 01.09.2026) · Uploaded: 25.09.2026

FACTS

The petitioner was an employee of the Karachi Electric Supply Company, now K-Electric, and a member of the KESC Labour Union, of which he was elected Chairman in 2017 and again in 2019. The Union was elected collective bargaining agent by referendum. Disputes over the election of office-bearers led to appeals before the Chairman of the National Industrial Relations Commission, who by order dated 17.02.2020 directed a fresh election and observed that the petitioner, then stated to be 61, had attained the age of superannuation, was no longer an employee or workman of K-Electric and therefore could not be an office-bearer; doubt was also expressed about the documents produced to show suspension of his licence to practise law. In the ensuing process the petitioner filed nomination papers for the office of Chairman, claiming eligibility under the proviso to section 8(1)(d). A Single Member of the NIRC found on 10.03.2023 no material showing him ineligible; the Full Bench set that order aside on 16.06.2023. The High Court dismissed his constitutional petition, holding him ineligible to contest for a position within the remaining twenty-five per cent of the executive.

LEGAL ISSUE

Whether the remaining twenty-five per cent of the members of the executive of a trade union contemplated by the proviso to section 8(1)(d) of the Industrial Relations Act, 2012 must themselves be workmen, or may include persons who are not workmen.

HOLDING

Leave was granted and the appeal allowed. Section 8(1)(d) commands only that not less than seventy-five per cent of the executive be drawn from amongst the workmen actually engaged or employed in the establishment, establishments or industry concerned, leaving room for the remaining up to twenty-five per cent to be drawn from outsiders; it does not require that this permissible space be filled, and is enabling rather than compulsory. Read with section 3(c), which recognises the right of workers' and employers' organisations to draw up their constitutions and rules and to elect their representatives in full freedom, and section 7(b), which contemplates adoption of a union's constitution by resolution of its members, it is for the members to determine through the constitution whether and to what extent to avail of the latitude permitted. The Act of 2012 is beneficial legislation to be interpreted broadly so as to advance the interests of the class for whose benefit it was enacted, and the construction adopted preserves rather than limits the workers' choice. The Court relied on the views of the ILO Committee on Freedom of Association in the UBL Employees Union complaint (Case No. 2096), which had itself understood section 8(1)(d) as exempting twenty-five per cent of trade union officers from the occupational requirement, observing that this was not an abstract comparative opinion but the specialised committee's consideration of the very provision and objection before the Court. On the question of a maximum age, no restriction is prescribed by the Act, and the Court declined on separation-of-powers grounds to supply one, recommending instead that the legislature consider a limit in the range of sixty-five to seventy years together with an appropriate fitness requirement.

LEGAL SIGNIFICANCE

The authoritative construction of a provision that governs the composition of every trade union executive in the country, and a decision unions and employers will both need to absorb. Its practical effect is to open the twenty-five per cent space to retired employees, former workmen and other outsiders whom the membership considers suitable, while leaving each union free, through its own constitution, to close that space entirely.

The judgment is also a good modern statement of the use of international materials in construing domestic law: the Court applies the settled rule that a statute is to be read, so far as its language admits, consistently with the comity of nations and Pakistan's treaty obligations, while acknowledging that clear municipal language must prevail over an international obligation in conflict with it. Its reliance on the findings of the ILO Committee on Freedom of Association in a complaint concerning Pakistan, and on the Indian authorities in Vishaka and Navtej Singh Johar, will be cited whenever international labour standards are pressed in argument. Finally, the express recommendation to the legislature on a maximum age, coupled with the refusal to legislate judicially, is a useful illustration of the boundary.

LEGAL PROPOSITIONS (VERBATIM)

— The law merely preserves that choice; it does not compel its exercise.

— Section 8(1)(d) of the IRA 2012 does not require that twenty-five percent of the executive must consist of outsiders.

— The provision is, therefore, enabling rather than compulsory in this respect.

— It is settled that every statute is to be interpreted and applied, as far as its language admits, so as not to be inconsistent with the comity of nations or the established rules of international law.

LEGAL PRINCIPLES EXPOUNDED

Where two interpretations of a provision are possible, the one consistent with international law or Pakistan's treaty obligations is to be preferred; but clear municipal language must be given effect even if it conflicts with those obligations.

Source: *Where two interpretations of a provision are possible, the one consistent with International Law or Pakistan’s treaty obligations is to be preferred.*

Authority: *Hanover Fire Insurance Company v. Muralidhar Banechand (PLD 1958 SC 138); Imperial Tobacco Co of India Ltd v. Commissioner of Income-Tax (PLD 1958 SC 125)*

The Industrial Relations Act, 2012 is beneficial legislation and is to be interpreted broadly so as to advance the interests of the class for whose benefit it has been enacted.

Source: *It is well settled that such legislation is to be interpreted broadly and in a manner that advances the interests of the class for whose benefit it has been enacted.*

Authority: *Ashraf Sugar Mills v. Manzoor Ahmed (2006 SCMR 1751); Lahore Development Authority v. Abdul Shafique (PLD 2000 SC 207)*

It is for the members of a trade union, through its constitution, to determine whether and to what extent to avail themselves of the latitude permitted by section 8(1)(d).

Source: *Read together, these provisions leave it ultimately to the members of the trade union, through its constitution, to determine whether and to what extent they wish to avail themselves of the latitude permitted by section 8(1)(d).*

Authority: *Sections 3(c), 7(b) and 8(1)(d), Industrial Relations Act, 2012*

OPERATIVE ORDER

For the foregoing reasons, leave is granted and the appeal is allowed. The impugned judgment of the High Court of Sindh is set aside and the constitutional petition filed by the petitioner is allowed in the terms that the remaining twenty-five percent of the members of the executive of a trade union contemplated by the proviso to section 8(1)(d) of the IRA 2012 are not necessarily required to be workmen and may include persons who are not workmen.

View Full Judgment

Supreme Court of Pakistan

5 judgments

MUSLIM FAMILY LAWS ORDINANCE, 1961 SS. 5, 8, 9, 10 AND FORM II OF THE RULES; QANUN-E-SHAHADAT ORDER, 1984 ARTS. 102, 103, 105; CONSTITUTION OF PAKISTAN, 1973 ARTS. 2A, 14, 25, 29, 35 — SIX QUESTIONS OF LAW ON NIKAH, DOWER AND THE NIKAHNAMA AUTHORITATIVELY SETTLED; COLUMNS 13 TO 16 ARE INTERRELATED COMPONENTS OF A SINGLE STATUTORY SCHEME AND THE DOWER RECORDED ACROSS THEM COLLECTIVELY REPRESENTS THE TOTAL DOWER AGREED

Mst. Farwa Noreen v. Hassan Ali Agha and others (with C.P.L.A. No. 1299 of 2023, C.P.L.A. No. 2850 of 2025, C.P.L.A. No. 5424 of 2025, C.A. Nos. 821 to 826 of 2025 and Crl. A. No. 1066 of 2025)

QUESTIONS OF LAW ANSWERED; INDIVIDUAL CASES DIRECTED TO BE PLACED BEFORE THE APPROPRIATE BENCH FOR DECISION ON THEIR OWN MERITS; DIRECTIONS ISSUED TO NIKAH REGISTRARS AND UNION COUNCILS; APPROVED FOR REPORTING

C.P.L.A. Nos. 372-P and 373-P of 2019 and connected matters, Supreme Court of Pakistan · Bench: Shahid Waheed, Irfan Saadat Khan, Aqeel Ahmed Abbasi and Shahid Bilal Hassan, JJ (judgment by Shahid Waheed, J, with an additional note by Shahid Bilal Hassan, J) · Decided: 22.09.2026 (heard 08.07.2026) · Uploaded: 22.09.2026

FACTS

A four-member Bench took up a batch of ten matters from the Peshawar and Lahore High Courts in which the recurring controversy was the legal effect of stipulations recorded in a Nikahnama concerning dower. The Court noted that the answers given by different courts had not been consistent: in some cases excessive emphasis had been placed upon the literal wording of isolated entries, and in others the surrounding circumstances had been permitted to override the statutory record without adequate legal justification. It further recorded, on the basis of empirical study and experience, instances in which a husband records as dower immovable property which he neither owns nor possesses, or which he owns only in part, or which he describes without particulars, or which is the subject of litigation in which he subsequently loses title. Because the answers were likely to govern a large number of pending cases, the Court deliberately confined the scope of the proceedings to the questions of law, declining to examine the facts of the individual cases, assess the evidence or express any opinion on the merits.

LEGAL ISSUE

Six questions were formulated: whether Nikah under Islamic law is merely a civil contract or a distinct legal institution; the legal nature, philosophy and object of dower; the legal implication of a husband giving immovable property in lieu of dower; whether the Nikahnama is itself the marriage contract or an official record of a contract already concluded; the principles governing its interpretation and the displacement of the presumption attaching to it; and the relationship between Columns 13, 14, 15 and 16.

HOLDING

The questions were answered as follows. Dower is a mandatory legal incident of marriage imposed by Islamic law; it is neither the price of the wife nor consideration in the technical common-law sense; it constitutes the exclusive proprietary right of the wife; the institution reflects and reinforces the constitutional values of human dignity, equality before law, protection of the family and fidelity to the injunctions of Islam; and courts must interpret laws affecting dower so as to give practical and effective protection to the wife's entitlement while remaining faithful to the agreement proved by the evidence. Giving immovable property in lieu of dower is, in substance and legal effect, a mode of discharging a matrimonial obligation rather than the creation of a contractual exchange, and where the property ultimately cannot be transferred the husband remains liable to pay its value as agreed and recorded, or, failing an agreed value, its market value at the date of decree. A marriage comes into existence upon a valid offer and acceptance in the presence of the requisite witnesses, and the rights of the spouses and the obligation to pay dower arise at that moment; the Nikahnama, ordinarily prepared afterwards, is an instrument of evidence which records but does not create. The Nikah Registrar performs a public and statutory but ministerial function; he is not a party to the contract and his authority is evidentiary, not creative. As to interpretation, the burden of displacing the presumption attaching to the Nikahnama lies on the party asserting that it does not correctly record the transaction, a mere denial being insufficient, and the greater the departure sought from the official record the heavier the evidentiary burden; a six-step sequence was prescribed for the resolution of such disputes. On Columns 13 to 16, all relate to dower and are complementary rather than contradictory: Column 13 records the amount, meaning the quantity, of dower and is not confined to cash; Column 14 identifies the prompt and deferred portions; Column 15 records payment at the time of marriage; and Column 16, which deliberately omits the words 'at the time of marriage' and is not expressed as an alternative to the earlier columns, records property given in lieu of the whole or any portion of the dower. A harmonious reading shows that the dower specified across them collectively represents the total dower agreed, and the view expressed in Naheed Begum and Fakhra Jabeen was clarified and modified accordingly.

LEGAL SIGNIFICANCE

The leading modern authority on dower and the Nikahnama, and the starting point for every such dispute from now on. Five practical consequences deserve attention. First, the Nikahnama is evidentiary, not constitutive — marriage and the obligation to pay dower arise upon ijab and qabul, and the document is their official memorial, so the Court's task extends beyond reading the form to asking whether it faithfully records what was agreed. Second, Columns 13 to 16 are complementary rather than alternative, and the dower specified across them collectively represents the total dower agreed; the view in Naheed Begum and Fakhra Jabeen is clarified and modified accordingly. Third, Column 13 is not confined to cash: 'amount' means quantity, and the Urdu rendering as 'raqam' may mislead. Fourth, where property stipulated as dower cannot be transferred, the husband remains liable for its agreed value, and in the absence of an agreed value, for its market value at the date of decree — closing a gap frequently exploited. Fifth, the six-step sequence prescribed in paragraph 42 for resolving disputed entries, and the directions issued to Nikah Registrars and Union Councils, give the judgment an operational reach beyond the parties. Note also the additional note of Shahid Bilal Hassan, J, which, while concurring, takes a firmer line against subordinating the statutory columns to a reconstructed intention.

LEGAL PROPOSITIONS (VERBATIM)

— *It records. It does not create. It certifies. It does not solemnise. It preserves. It does not originate.*

— *Chronology itself demonstrates that the marriage is the juridical source of the rights; the Nikahnama is their official memorial.*

— *A wife who receives dower does not receive charity. She receives no favour. She receives no benevolence. She receives that which the law has declared to be her own.*

— *Judicial interpretation is not judicial legislation.*

— *The inability to transfer the property cannot, by itself, extinguish the underlying obligation to pay the dower.*

— *That is not dower. That is coercion.*

LEGAL PRINCIPLES EXPOUNDED

Columns 13 to 16 of the Nikahnama are complementary rather than contradictory, and the dower specified within them collectively represents the total dower agreed between the parties.

Source: *Thus, a harmonious reading of these columns suggests that the dower specified within them collectively represents the total amount of dower agreed upon.*

Authority: *Form II, Rules under the Muslim Family Laws Ordinance, 1961; Haseen Ullah v. Mst. Naheed Begum (PLD 2022 SC 686); Mst. Fakhra Jabeen v. Wasif Ali (PLD 2026 SC 20)*

The Nikah Registrar performs a ministerial and evidentiary function; he is not a party to the contract and has no authority to negotiate or determine its terms.

Source: *His authority is evidentiary, not creative.*

Authority: *Sections 5, 8, 9 and 10, Muslim Family Laws Ordinance, 1961; Muhammad Arif v. Muhammad Kawshar Ali (PLD 1969 SC 435)*

The burden of displacing the presumption attaching to the Nikahnama lies on the party asserting that it does not correctly record the transaction, and a mere denial is insufficient.

Source: *A mere denial is insufficient.*

Authority: *Articles 102, 103 and 105, Qanun-e-Shahadat Order, 1984; Crane v. Hegeman-Harris Co. (1939) I All ER 662*

Where two interpretations of a matrimonial transaction are reasonably open on the evidence, the interpretation that best preserves the wife's lawful entitlement, while remaining faithful to the parties' actual agreement, should ordinarily be preferred.

Source: *Accordingly, where two interpretations of a matrimonial transaction are reasonably open upon the evidence, the interpretation that best preserves the wife's lawful entitlement, while remaining faithful to the parties' actual agreement and the governing principles of Islamic law, should ordinarily be preferred.*

Authority: *Articles 2A, 14 and 25, Constitution of Pakistan, 1973*

Giving immovable property in lieu of dower is, in substance and legal effect, a mode of discharging a matrimonial obligation, governed primarily by the principles regulating dower itself.

Source: *In this respect, the transaction bears closer resemblance to performance of an obligation than to the creation of a contractual exchange.*

Authority: *Fazal-ur-Rehman v. Mst. Sosan Jan (1989 SCMR 651); Fawad Ishaq v. Mst. Mehreen Mansoor (PLD 2020 SC 269)*

OPERATIVE ORDER

In view of the foregoing discussion, we have answered the questions of law formulated hereinabove. As the present proceedings were confined to the resolution of those legal questions, we have deliberately refrained from expressing any opinion on the merits of the individual cases or on the factual controversies involved therein, lest any observation made by us should prejudice either party. The office is, therefore, directed to place each of these cases before the appropriate Bench, in accordance with the roster, for decision on its own merits in the light of the evidence available on the record.

■ **View Full Judgment**

CUSTOMS ACT, 1969 SS. 25, 25A(1), (2) AND (4), 25D; CUSTOMS RULES, 2001 R. 107(A) AS AMENDED BY S.R.O. 564(I)/2017; WTO VALUATION AGREEMENT — A VALUATION RULING REMAINS THE APPLICABLE CUSTOMS VALUE UNTIL REVISED OR RESCINDED; THE NINETY-DAY PERIOD IN RULE 107(A) GOVERNS THE TEMPORAL PROXIMITY OF VALUATION DATA, NOT THE LIFE OF THE RULING

The Collector of Customs, Customs Collectorate of Appraisement (East), Karachi v. M/s Forte Marketing Services, Lahore and M/s RAK Trading Marketing Services, Lahore

PETITIONS CONVERTED INTO APPEALS AND ALLOWED; JUDGMENT OF THE HIGH OF SINDH SET ASIDE; APPROVED FOR REPORTING

Civil Petitions No. 86-K to 115-K of 2023 (converted into appeals), Supreme Court of Pakistan (against the judgment dated 16.11.2022 of the High Court of Sindh, Karachi in Spl. Customs Reference Applications Nos. 34 to 63 of 2020) · Bench: Yahya Afridi, CJ, Muhammad Shafi Siddiqui and Miangul Hassan Aurangzeb, JJ (judgment by Muhammad Shafi Siddiqui, J) · Decided: 24.09.2026 (heard 16.06.2026) · Uploaded: 24.09.2026

FACTS

Thirty connected petitions raised a single question. Valuation Ruling No. 874 of 2016 dated 22.06.2016 had been issued under section 25A in respect of the goods imported by the respondents and was operative at the time of the relevant assessments. The respondents contended that, by reason of the ninety-day definition of 'at or about the same time' in Rule 107(a) of the Customs Rules, 2001 and the observations of the Sindh High Court in Sadia Jabbar v. Federation of Pakistan (2018 PTD 1746), the Valuation Ruling ceased to be applicable on the expiry of ninety days from issuance, so that the declared transaction value under section 25(1) fell to be applied. The Customs Appellate Tribunal and the High Court accepted that contention and directed assessment under section 25(1). The imports and Valuation Rulings considered in Sadia Jabbar substantially related to 2008-09, whereas sub-section (4) of section 25A had been introduced subsequently through the Finance Act, 2010; Rule 107(a) was thereafter amended by S.R.O. 564(I)/2017 to provide expressly that where a Valuation Ruling under section 25A exists, the ruling shall remain in the field unless rescinded, modified or replaced.

LEGAL ISSUE

Whether a Valuation Ruling validly issued under section 25A of the Customs Act, 1969 remains the applicable customs value until revised or rescinded under sub-section (4), or whether the passage of ninety days renders it inapplicable by reason of the temporal requirements of the valuation methodology under section 25 and Rule 107 of the Customs Rules, 2001.

HOLDING

The appeals were allowed. Section 25A operates within, and not outside, the valuation framework of section 25: sub-section (1) requires the applicable methods under section 25 to be followed in making the determination, sub-section (2) gives legal effect to the value so determined, and sub-section (4) governs its continued applicability, providing that the value shall apply until and unless revised or rescinded by the competent authority. Rule 107(a) and section 25A(4) operate in different fields — the former addresses the temporal relevance of valuation data used in applying the valuation methods, the latter the continued operation of the value once determined. Sadia Jabbar must be understood in its statutory and factual context and cannot be read as establishing that the mere passage of ninety days invariably extinguishes a Valuation Ruling; the later decision in Wasim Radio Traders (2023 SCMR 1716) confirms that a ruling is applicable and binding until revised or rescinded. A Valuation Ruling is not an evidentiary aid but the statutory determination of the applicable customs value, and it may be displaced only through section 25D or by revision or rescission. Where a ruling is separately challenged and set aside, the declared value does not by that fact alone acquire the status of the transaction value; the customs value must then be determined afresh under section 25.

LEGAL SIGNIFICANCE

This settles a question that has generated a large volume of litigation since Sadia Jabbar, and importers and the Department alike will need to reset their expectations. The practical effect is that the ninety-day argument is gone: so long as a Valuation Ruling is operative, an importer cannot obtain assessment on the declared transaction value merely by pointing to the calendar, and must instead invoke section 25D or seek revision or rescission, for which tangible reasons in law must be shown. The Court's separation of the two questions — the validity of a ruling as a determination made in accordance with the statutory methodology, and the continued legal operation of that determination once validly made — is the analytical key, and is worth quoting in any assessment dispute. Note also the caution against reading Sadia Jabbar without regard to the amendments to section 25A and Rule 107 that post-dated the imports it concerned.

LEGAL PROPOSITIONS (VERBATIM)

— In our view, the statutory scheme does not support the proposition that the mere expiry of ninety days operates to extinguish an otherwise operative Valuation Ruling.

— The two provisions therefore operate in different fields

— However, that end cannot be related to 90 days alone, no matter whichever jurisdiction was being exercised to rescind it. There has to be some tangible reasons for such recission, in law.

— Section 25A, therefore, does not dispense with the valuation methods prescribed by Section 25; rather, it enables the competent authority to determine the customs value of particular goods or a category of goods in accordance with those methods.

LEGAL PRINCIPLES EXPOUNDED

A Valuation Ruling, once duly issued and notified, is the statutory determination of the applicable customs value and not merely an evidentiary aid available to the assessing officer.

Source: *A Valuation Ruling issued under Section 25A is not merely an evidentiary aid or a piece of information available to the assessing officer; once duly issued and notified, it constitutes the statutory determination of the applicable customs value for the goods or category of goods to which it relates.*

Authority: *Sections 25A(1) and (2), Customs Act, 1969*

The legal effect of a Valuation Ruling cannot be displaced except through the mechanism in section 25D or upon revision or rescission by the competent authority.

Source: *The statutory scheme provides a specific mechanism for calling the determination into question through Section 25D, and the legal effect of the ruling cannot be displaced except in accordance with that mechanism or upon its revision or rescission by the competent authority.*

Authority: *Sections 25A(4) and 25D, Customs Act, 1969; Collector of Customs v. Wasim Radio Traders (2023 SCMR 1716)*

Where a Valuation Ruling is set aside, the declared value does not by that fact acquire the status of the transaction value; customs value must be determined afresh under section 25.

Source: *In such circumstances, the customs value would have to be determined by the competent authority in accordance with Section 25 and the valuation methods prescribed thereunder.*

Authority: *Sections 25 and 25A, Customs Act, 1969*

OPERATIVE ORDER

In the present case, Valuation Ruling No.874 of 2016 dated 22.06.2016, thus, was in force in respect of the goods in question at the time of their assessment, and no material has been brought on record to establish that the said ruling had, before the relevant assessments, been revised or rescinded by the competent authority under the statutory hierarchy. Therefore, the impugned judgment dated 16.11.2022 of the High Court is not sustainable and is set aside in view of the aforesaid reasoning. The question brought for our consideration is thus answered. The petitions are therefore converted into appeals and the same are allowed.

■ View Full Judgment

INCOME TAX ORDINANCE, 2001 SS. 49(2), 120, 122(5A); GENERAL CLAUSES ACT, 1897 S. 3(28); LOCAL AUTHORITIES LOANS ACT, 1914 S. 2 — OPERATING WITHIN A DEFINED AREA AND PERFORMING PUBLIC FUNCTIONS DOES NOT MAKE A BODY A 'LOCAL AUTHORITY'; WHAT IS REQUIRED IS THE LEGAL ENTITLEMENT TO CONTROL OR MANAGE A MUNICIPAL OR LOCAL FUND, OR TO IMPOSE A CESS, RATE, DUTY OR TAX

M/s Defence Housing Authority, Islamabad v. Commissioner Inland Revenue (Zone-II), Large Taxpayers Unit, Islamabad

APPEALS DISMISSED; EXEMPTION UNDER SECTION 49(2) HELD UNAVAILABLE; APPROVED FOR REPORTING

Civil Appeals No. 1309 to 1312 of 2019, Supreme Court of Pakistan (on appeal from the judgment dated 14.01.2019 of the Islamabad High Court in I.T.R. Nos. 32 to 35 of 2012) · Bench: Yahya Afridi, CJ, Naeem Akhter Afghan and Muhammad Shafi Siddiqui, JJ (judgment by Muhammad Shafi Siddiqui, J) · Decided: 17.08.2026 · Uploaded: 23.09.2026

FACTS

The appellant filed returns under section 49 of the Income Tax Ordinance, 2001 for Tax Years 2005 to 2008 claiming exemption under section 49(2) on the footing that it was a 'local authority'. The returns were treated as assessment orders under section 120. The Commissioner (Audit-II) and the Additional Commissioner (Audit-II) thereafter amended the assessments under section 122(5A) as erroneous and prejudicial to the interest of revenue, taking the view that the appellant was not a local authority. The Commissioner (Appeals-I) accepted the appellant's contention, and the Appellate Tribunal Inland Revenue upheld those orders by a consolidated order dated 18.01.2012, relying on the definitions in the General Clauses Act, 1897 and the Local Authorities Loans Act, 1914. On references by the Revenue, the Islamabad High Court answered in the negative by judgment dated 14.01.2019. Before the Supreme Court the appellant relied upon its constitution by law for the development, planning, regulation and administration of its area, and upon the public and local character of the powers it exercises.

LEGAL ISSUE

Whether the appellant falls within the expression 'local authority' in section 49(2) of the Income Tax Ordinance, 2001, so as to qualify for exemption from income tax.

HOLDING

The appeals were dismissed. Section 3(28) of the General Clauses Act, 1897 does not extend to every statutory authority exercising powers within a locality or performing functions of a public or civic nature: while the opening words identify municipal committees, district boards and bodies of port commissioners, the expression 'other authority' is itself subject to the requirement of legal entitlement to, or entrustment with, the control or management of a municipal or local fund. Section 2 of the Local Authorities Loans Act, 1914 identifies two alternative attributes — entitlement to control or manage a local or municipal fund, or entitlement to impose a cess, rate, duty or tax within a local area. Neither was established. Applying Ataul Huq (PLD 1965 SC 201), corporate existence and governmental involvement in management do not determine status; the character of the functions and powers actually entrusted remains the relevant consideration. In Chief Secretary (1981 PTD 66) the Thal Development Authority qualified not because it operated within a particular area but because the law had vested it with powers of considerable breadth, including the power to levy taxes; and Market Committee (2011 SCMR 1856) identifies a combination of characteristics which must be predominantly and substantially possessed. The appellant's case did not advance beyond its territorial sphere and the public nature of its functions.

LEGAL SIGNIFICANCE

A clean and portable test for a question that recurs across the revenue, service and local-government fields, and which will govern exemption claims by development authorities generally. The Court's central distinction — between an authority whose activities happen to be confined to a locality and an authority upon which the law has conferred the legal character and attributes of a local authority — is the sentence to cite. Two points of practical importance follow. First, the mere existence of a statutory fund, or authority to collect charges in the course of performing functions, will not do: what must be shown is the legal entitlement contemplated by the definitions, and the legal character of the receipts and the authority under which they are imposed or administered must be established on the record. Second, the burden is evidentiary as much as legal — the appeal failed substantially because no material was placed before the Court demonstrating a breadth of powers comparable to that in the earlier authorities. Advisers should assemble that material at the assessment stage rather than the appellate.

LEGAL PROPOSITIONS (VERBATIM)

— *The distinction, therefore, is between an authority whose activities happen to be confined to a locality and an authority upon which the law has conferred the legal character and attributes of a local authority.*

— *Such localisation of functions is not equivalent to the entrustment of a sphere of local self-government.*

— *The former does not become the latter merely because its functions concern the affairs of persons residing within a defined area.*

— *Likewise, in Market Committee (supra) the Court identified a combination of characteristics which, when predominantly and substantially possessed by a body, establish its character as a local authority.*

LEGAL PRINCIPLES EXPOUNDED

Legal entitlement to, or entrustment with, the control or management of a municipal or local fund is a material constituent of the expression 'local authority'.

Source: *The statutory definition thus makes the legal entitlement to, or entrustment with, the control or management of such a fund a material constituent of the expression "local authority".*

Authority: *Section 3(28), General Clauses Act, 1897; section 49(2), Income Tax Ordinance, 2001*

The mere existence of a statutory fund, or the authority to collect charges in the course of carrying out functions, cannot by itself establish the status of a local authority.

Source: *The mere existence of a statutory fund, or the authority to collect charges in the course of carrying out its functions, cannot by itself establish the status claimed; what is material is the existence of the legal entitlement contemplated by the definition.*

Authority: *Section 2, Local Authorities Loans Act, 1914*

Corporate existence and governmental involvement in management do not determine a body's character; the functions and powers actually entrusted to it remain the relevant consideration.

Source: *As this Court made clear in Ataul Huq, even corporate existence and governmental involvement in the management of a body do not determine its status; the character of the functions and powers actually entrusted to it remains the relevant consideration.*

Authority: *Deputy Managing Director, National Bank of Pakistan v. Ataul Huq (PLD 1965 SC 201); Province of Punjab v. Market Committee (2011 SCMR 1856)*

OPERATIVE ORDER

> *We are, therefore, unable to accept the appellant's contention that it falls within the expression "local authority" occurring in section 49(2) of the Ordinance. Consequently, the exemption claimed thereunder is not available to the appellant. Therefore, these appeals are dismissed.*

■ **View Full Judgment**

SERVICE TRIBUNALS ACT, 1973 S. 4; OFFICE MEMORANDA DATED 23.12.2011, 18.08.2015, 31.03.2021 AND 09.05.2025 — AN EXECUTIVE NOTIFICATION OR OFFICE MEMORANDUM OPERATES PROSPECTIVELY AND CANNOT TAKE AWAY VESTED OR ACCRUED RIGHTS; A BENEFICIAL O.M. MUST BE IMPLEMENTED ACROSS THE BOARD SUBJECT TO THE CRITERIA IT PRESCRIBES

Government of Pakistan through Secretary, Establishment Division, Islamabad v. Muhammad Iqbal and another (and nineteen connected petitions)

PETITIONS CONVERTED INTO APPEALS AND PARTLY ALLOWED; DEPARTMENTS DIRECTED TO RE-EXAMINE EACH CASE WITHIN THREE MONTHS BY SPEAKING ORDER; NO RECOVERY IN THE MEANTIME; APPROVED FOR REPORTING

Civil Petitions No. 52, 509 and 3445 of 2022, 3526 of 2023, 2504 of 2024, 4053, 4231 to 4234, 2813, 5462 and 5463 of 2025, 448, 434, 436, 435, 481, 480, 479 and 519 of 2026 (converted into appeals), Supreme Court of Pakistan · Bench: Muhammad Ali Mazhar, Irfan Saadat Khan and Shahid Bilal Hassan, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 15.09.2026 · Uploaded: 24.09.2026

FACTS

Twenty petitions by the Federation and its departments challenged judgments of the Federal Service Tribunal granting time scale promotion to the respondent civil servants. Four Office Memoranda governed the controversy: the first, dated 23.12.2011, laid down the criteria for time scale; it was modified by an O.M. dated 18.08.2015; the criterion of length of service was further modified by an O.M. dated 31.03.2021; and the O.M. dated 18.08.2015 was withdrawn by an O.M. dated 09.05.2025. The Additional Attorney General contended that the Tribunal had no jurisdiction to grant a time scale which was not part of the terms and conditions of service, and that no remedy lay under section 4 of the Service Tribunals Act, 1973. Counsel for the respondents contended that their clients had completed the requisite length of service before the issuance of the 2021 O.M. and before the withdrawal of the 2015 O.M., and that rights accrued under the 2011 and 2015 O.Ms could not be recalled or altered by a subsequent O.M. given retrospective effect. Several petitions were barred by periods ranging from fourteen to thirty-nine days; delay was condoned as a common question of law arose. Some respondents complained that time scales already granted were being recovered from them.

LEGAL ISSUE

Whether an Office Memorandum revising the benchmarks for the grant of time scale promotion, or withdrawing an earlier beneficial Office Memorandum, operates retrospectively so as to defeat rights which had already accrued to civil servants under the Office Memoranda in force when they completed the requisite length of service.

HOLDING

The petitions were converted into appeals and partly allowed. Once a beneficial Office Memorandum is issued by the competent authority it is that authority's responsibility to implement it in letter and spirit, and the benefits must be allowed across the board to all eligible employees, subject to fulfilment of the conditions and criteria prescribed. A notification or Office Memorandum revising the benchmarks for the grant of time scale promotion cannot be applied retrospectively and takes effect from the date of its notification. An executive notification or subordinate legislation operates prospectively; Office Memoranda curtailing vested rights or accrued benefits cannot operate backward. The primary reason for rejecting retroactive effect is to protect vested rights accrued during the currency of the prevailing Office Memoranda, and a variation in the canons cannot upset rights legally built up before the yardsticks were changed. Substantive rights and liabilities are shaped and mature under the law applicable at the relevant time and cannot be altered retrospectively, under the doctrine of certainty and predictability. Where public authorities create a legitimate expectation through consistent past practice or policy, it must not be transmuted without lawful justification or exigency. On that footing the parties agreed modalities: each case to be individually reconsidered against the criteria including length of service, the Office Memoranda including those of 31.03.2021 and 09.05.2025 not to be construed as having retrospective effect, and the exercise to be completed within three months by speaking orders.

LEGAL SIGNIFICANCE

Of immediate practical use to anyone advising civil servants or departments on time scale promotion, and of wider use on the retrospectivity of executive instruments. Three propositions travel well beyond the facts.

First, a beneficial Office Memorandum imposes a corresponding duty of implementation, and the benefit is to be extended across the board rather than to those who happen to litigate. Second, the date on which eligibility crystallised — not the date on which the department got round to examining the case — fixes the applicable criteria. Third, the Court's invocation of legitimate expectation arising from consistent past practice or policy, and of certainty and predictability, gives a principled footing to challenges to abrupt policy reversals. The interim protection against recovery pending completion of the exercise is also worth noting; departments recovering amounts already paid under a since-withdrawn Office Memorandum should expect it to be cited. The Additional Attorney General's reservation on the Tribunal's jurisdiction was expressly left open for argument in other cases.

LEGAL PROPOSITIONS (VERBATIM)

— It is a well-settled proposition of law that notification/O.M revising the benchmarks for the grant of time scale promotion cannot be applied retrospectively but it will be effective from the date of its notification.

— The O.M(s) curtailing the vested rights or accrued benefits cannot operate backward but it should be operated prospectively.

— The cardinal rule of statutory interpretation is that an executive order or notification cannot take away vested, accrued, or substantive rights that individuals already possessed before the notification was issued.

— It is well settled exposition of law that an executive notification or subordinate legislation operates prospectively and cannot have

LEGAL PRINCIPLES EXPOUNDED

A beneficial Office Memorandum carries a corresponding duty of implementation, and its benefits must be allowed across the board to all eligible employees subject to the prescribed criteria.

Source: *The benefits mentioned in the O.M(s) should have been allowed to all the eligible employees across the board but subject to the fulfilment of the conditions and the criteria laid down for extending any such benefit by means of aforesaid O.M(s).*

Authority: *Office Memoranda dated 23.12.2011, 18.08.2015, 31.03.2021 and 09.05.2025*

Substantive rights and liabilities mature under the law applicable at the relevant time and cannot be altered retrospectively, under the doctrine of certainty and predictability.

Source: *The substantive rights and liabilities are shaped up and mature under the law applicable at that particular and identifiable time which cannot be altered with retrospective effect under the doctrine of certainty and predictability.*

Authority: *Section 4, Service Tribunals Act, 1973*

A legitimate expectation created by consistent past practice or policy must not be altered without lawful justification or exigency.

Source: *When public authorities/departments create a legitimate expectation through consistent past practice or policy then it must not be transmuted snappishly without lawful justification or exigency or to punish or penalize individuals for actions that were perfectly lawful when they performed them.*

Authority: *Service Tribunals Act, 1973*

OPERATIVE ORDER

All the Civil Petitions for leave to appeal are converted into appeals and partly allowed in the above terms along with pending applications.

View Full Judgment

PUNJAB CIVIL SERVANTS (EFFICIENCY AND DISCIPLINE) RULES; CONSTITUTION OF PAKISTAN, 1973 ART. 10-A — WHERE A SERVICE TRIBUNAL FINDS THE CHARGE UNPROVED AND THE INQUIRY DEFECTIVE, THE PROPER COURSE IS EXONERATION, NOT REDUCTION OF THE PENALTY

Nazir Ahmad v. Chief Secretary to Government of the Punjab, Lahore and another

PETITION CONVERTED INTO APPEAL AND ALLOWED; TRIBUNAL'S JUDGMENT AND DEPARTMENTAL ORDERS SET ASIDE; PETITIONER EXONERATED WITH ALL BACK BENEFITS FROM 01.08.2017; APPROVED FOR REPORTING

Civil Petition No. 2732 of 2023 (converted into appeal), Supreme Court of Pakistan (against the judgment dated 08.03.2023 of the Punjab Service Tribunal, Lahore in Appeal No. 5039 of 2020) · Bench: Ayesha A. Malik and Aqeel Ahmed Abbasi, JJ (judgment by Aqeel Ahmed Abbasi, J) · Decided: 16.09.2026 · Uploaded: 23.09.2026

FACTS

The petitioner faced departmental proceedings arising from the analysis of a sample of RICO (Crops Supplement) Zinc Sulphate containing 33% Zinc. The sample was received on 17.05.2016 and analysed on 23.05.2016, the report being transmitted the same day. The second portion of the sample was re-analysed at the Raiwind Reference Fertilizer Laboratory on 29.09.2016 — after a lapse of some 120 days, whereas the Standard Operating Procedure dated 31.12.2014 permitted re-analysis within 60 days — and without associating the petitioner or affording him any opportunity to rebut the resulting report. He was compulsorily retired from service by order of the Chief Secretary dated 14.10.2020. The Punjab Service Tribunal, by judgment dated 08.03.2023, acknowledged the legal defects, found that no ulterior motive had been attributed to the petitioner, that no loss had been caused to the department, and that the allegations were based on whims — yet, instead of exonerating him, converted the major penalty of compulsory retirement into forfeiture of two years' approved service. The department did not challenge those adverse findings by filing a petition before the Supreme Court.

LEGAL ISSUE

Whether a Service Tribunal which has found that the charges were not established, that the inquiry was conducted in violation of the applicable Standard Operating Procedure, and that the civil servant was denied due process, may nevertheless sustain a reduced penalty rather than exonerate him.

HOLDING

The appeal was allowed and the petitioner exonerated. The allegations of connivance, ulterior motive and loss to the department could not be established through evidence. The legal defects in the conduct of the inquiry — sending the second portion of the sample beyond the 60 days allowed by the Standard Operating Procedure, without associating the petitioner or providing him an opportunity to rebut the allegations — showed that he had been denied due process. The adverse findings recorded by the Tribunal had not been challenged by the department. No justification was available to the Tribunal to deny the entire relief claimed. Once the Tribunal had reached that conclusion, the proper course was to set aside the impugned orders and exonerate the petitioner rather than convert the major penalty into forfeiture of two years' approved service. The petitioner was accordingly held entitled to all back benefits of pay and allowances from the date of compulsory retirement.

LEGAL SIGNIFICANCE

Short, but of real value in service practice, where tribunals not infrequently record findings destructive of the charge and then soften rather than set aside the penalty. The judgment establishes that the two are not severable: a finding that the charge is unproved and that due process was denied leaves no room for a reduced penalty, and the reduction is itself an error correctable on appeal. Two subsidiary points repay attention. First, the Court attached significance to the department's failure to challenge the Tribunal's adverse findings — a reminder that a respondent content with the outcome may nonetheless need to protect the findings. Second, non-compliance with a departmental Standard Operating Procedure governing the handling and re-analysis of samples, coupled with the failure to associate the civil servant, was treated as a denial of fair trial under Article 10-A rather than as a mere irregularity, which will assist wherever the integrity of a sampling or testing process is in issue.

LEGAL PROPOSITIONS (VERBATIM)

— We see no justification was available to the learned Tribunal to deny the entire relief claimed by the petitioner.

— The adverse findings have not been challenged by the department by filing a CPLA before this Court.

— Perusal of the record, and the findings of fact as recorded by the Tribunal shows that the allegations of connivance, ulterior motive any loss, to the department could not be established by the department through evidence.

LEGAL PRINCIPLES EXPOUNDED

Re-analysis of a sample beyond the period allowed by the governing Standard Operating Procedure, without associating the civil servant or affording him an opportunity to rebut, is a denial of due process.

Source: *Moreover, the legal defects in the process of conducting the inquiry, sending the second portion of the sample of RICO (Crops Supplement) Zinc Sulphate, after a lapse of 60 days as per the SOP, without associating the petitioner or providing him an opportunity to rebut the allegations to this effect reflects that petitioner was denied due process.*

Authority: *Article 10-A, Constitution of Pakistan, 1973; SOP dated 31.12.2014*

Where no proper inquiry was conducted and the civil servant was not associated with the process, the allegation of misconduct is not proved and exoneration must follow.

Source: *We have observed that the petitioner has been denied a fair trial by the respondents, as no proper inquiry was conducted nor petitioner was associated with the process of re-analyzing the second portion of the sample of RICO (Crops Supplement) Zinc Sulphate, which otherwise, appears to have been sent beyond the period of 60 days as per the SOP dated 31.12.2014, therefore, the allegation of misconduct could not be proved against the petitioner.*

Authority: *Punjab Civil Servants (Efficiency and Discipline) Rules; Article 10-A, Constitution of Pakistan, 1973*

OPERATIVE ORDER

In view of hereinabove facts and circumstances, we are of the opinion that the petitioner has made out a case requiring interference by this Court. Accordingly, the judgment of the Tribunal as well as the orders passed by the departmental authorities are set aside and the petitioner is exonerated from all the charges leveled against him. Consequently, the petitioner is held entitled to all back benefits of pay and allowances from the date of compulsory retirement i.e., 01.08.2017. This petition, therefore converted into an appeal and allowed in the above-mentioned terms.

■ **View Full Judgment**

Lahore High Court

4 judgments

ANTI-MONEY LAUNDERING ACT, 2010 SS. 3, 4, 8, 21, 23 AND SCHEDULE-I; INCOME TAX ORDINANCE, 2001 SS. 111, 120, 122, 192, 192A, 194, 199; CONSTITUTION OF PAKISTAN, 1973 ARTS. 4, 10A, 199 — AN INVESTIGATION UNDER THE ANTI-MONEY LAUNDERING ACT NEED NOT AWAIT THE FINAL DETERMINATION OF TAX LIABILITY UNDER THE INCOME TAX ORDINANCE; TAJ INTERNATIONAL DISTINGUISHED

Mahmood Akbar v. Federal Board of Revenue etc. (with eighteen connected petitions)

CONSTITUTIONAL PETITIONS DISMISSED; OBSERVATIONS CONFINED TO THE QUESTIONS RAISED AND NOT TO PREJUDICE THE PARTIES BEFORE THE INVESTIGATING AGENCY OR THE COMPETENT COURT; APPROVED FOR REPORTING

W.P. No. 2928 of 2026 and connected petitions, Lahore High Court, Lahore (2026 LHC 6058) · Bench: Khalid Ishaq and Hassan Nawaz Makhdoom, JJ (judgment by Khalid Ishaq, J) · Decided: 24.09.2026 (reserved 02.07.2026) · Uploaded: 25.09.2026

FACTS

Nineteen taxpayers registered under the Income Tax Ordinance, 2001 challenged proceedings initiated against them by the Directorate General, Intelligence and Investigation Inland Revenue under the Anti-Money Laundering Act, 2010 read with provisions of the Ordinance. Notices were issued and opportunities of hearing afforded, whereafter FIRs were registered under the Act on the basis of alleged predicate offences, followed by notices and summons. The petitioners contended that the underlying tax liability had not first been determined through the adjudicatory machinery of the Ordinance; that in some cases the determination had gone in their favour up to the Appellate Tribunal Inland Revenue; that in the absence of a determined predicate offence and identified proceeds of crime the ingredients of the Act were not attracted; that S.R.O. 425(I)/2016, by which offences under sections 192, 192A, 194 and 199 of the Ordinance were inserted in Schedule-I, had not validly been issued having regard to Mustafa Impex (PLD 2016 SC 808); that an Investigating Officer could not assume jurisdiction under sections 111 or 122 of the Ordinance; that proceedings could not be set in motion on an automated Suspicious Transaction Report, cognizance lying only on a complaint under section 21 read with section 200 Cr.P.C.; and that the Investigating Officer had not been conferred the powers of an officer-in-charge of a police station. The challenge was rooted in the guarantees of due process and fair trial under Articles 4 and 10A.

LEGAL ISSUE

Whether proceedings under the Anti-Money Laundering Act, 2010 founded upon predicate offences under the Income Tax Ordinance, 2001 may be initiated before the tax liability has been finally determined under the adjudicatory machinery of the Ordinance; and whether the ratio of Taj International lays down an absolute proposition to the contrary.

HOLDING

The petitions were dismissed. The Anti-Money Laundering Act is a special enactment which creates an independent offence directed towards proceeds of crime and their subsequent dealing; it is neither the machinery for the assessment of sales tax or income tax, nor a mode of recovering such tax. The construction pressed by the petitioners would make the exercise of powers expressly conferred by the Act contingent upon the completion and finality of proceedings under another enactment although the legislature, in bringing the relevant offences within Schedule-I, prescribed no such condition; it would also conflate the determination of fiscal liability with the distinct inquiry whether property constitutes proceeds of crime and has been dealt with so as to attract the ingredients of money laundering. The Court cannot, under the guise of interpretation, insert into a special penal enactment a jurisdictional precondition which does not emerge from its statutory scheme. Taj International (PLD 2025 SC 633) arose within the scheme of the Sales Tax Act, 1990 and rests upon four features peculiar to that enactment — its charging-and-assessment scheme, the linkage of punishment with the quantified tax, statutory compounding dependent upon determination of tax due, and recovery-oriented offences — none of which exists under the Act of 2010; moreover section 37A of the Sales Tax Act has since been amended. The Court declined to assume, in judicial review, the functions entrusted to the investigating agency and the competent Special Court, no exceptional circumstance having been made out for quashing the proceedings at that stage. It expressly preserved the statutory requirement of a predicate offence and the prosecution's burden of proving every ingredient of the offence.

LEGAL SIGNIFICANCE

The most consequential revenue-side judgment of the week, and one that will be relied on heavily by the Directorate and resisted equally heavily by the tax bar. Since Taj International, the argument that no money-laundering investigation may begin before the fiscal liability has been conclusively determined has been the first line of defence in every such case; the Division Bench has now confined that decision to the statutory scheme it construed. Three passages will travel. First, the refusal to read a jurisdictional precondition into a special penal enactment where the legislature has not prescribed one. Second, the insistence that determination of fiscal liability and determination whether property constitutes proceeds of crime are distinct inquiries, so that success before the Appellate Tribunal does not of itself defeat a prosecution under the Act. Third, the restatement — supported by Quinn v. Leathem and the modern Pakistani authorities — that a case is only authority for what it actually decides and cannot be cited for a proposition merely inferred from it, particularly where the legislature has since altered the statutory scheme construed. The judgment is careful to preserve the requirement of a predicate offence and the burden of proof, so it should not be read as dispensing with either.

LEGAL PROPOSITIONS (VERBATIM)

— The Court cannot, under the guise of interpretation, insert into a special penal enactment a jurisdictional precondition which does not emerge from its statutory scheme.

— It creates an independent offence directed towards proceeds of crime and their subsequent dealing in the manner contemplated by a special law.

— AMLA neither constitutes the machinery for assessment of sales tax or income tax nor makes prosecution for money laundering merely another mode for recovery of such tax.

— This principle underscores the limited applicability of judgments and reinforces the need for careful analysis when considering their implications in future cases

LEGAL PRINCIPLES EXPOUNDED

A judgment cannot be generalised beyond its context; it is authority only for what it actually decides and not for a proposition that may be inferred from it.

Source: *Respectfully, a judgment cannot be generalized beyond its context, as it is only applicable to the situation at hand and does not serve as a precedent for matters that lie outside its explicit scope.*

Authority: *Muhammad Shakeel v. Additional District Judge, Faisalabad (PLD 2025 SC 572); Quinn v. Leathem (1901 AC 495); Naubahar Bottling Company (Pvt.) Limited v. Federation of Pakistan (2022 SCMR 765)*

Where the legislature subsequently alters the material statutory scheme, the earlier interpretation cannot be extended to proceedings governed by the amended provision, much less transplanted into another special enactment of different genesis and object.

Source: *The ratio of a judgment rendered upon a statutory provision is to be understood with reference to the text of the law interpreted therein; where the legislature subsequently alters the material statutory scheme, the earlier interpretation, with respect and reverence, cannot be extended to proceedings governed by the amended provision, much less transplanted wholesomely into another special enactment having different genesis, object, ingredients, procedure and remedies.*

Authority: *Directorate of Intelligence and Investigation-FBR v. Taj International (Pvt.) Ltd. (PLD 2025 SC 633 = 2025 PTD 1270); section 37A, Sales Tax Act, 1990*

Nothing in the judgment dispenses with the statutory requirement of a predicate offence or relieves the prosecution of its burden of proving every ingredient of the offence.

Source: *At the same time, the above observations should not be understood as dispensing with the statutory requirement of a predicate offence or relieving the prosecution of its burden of proof to establish every ingredient of the offence under AMLA.*

Authority: *Sections 3 and 4 and Schedule-I, Anti-Money Laundering Act, 2010*

OPERATIVE ORDER

For what has been discussed above, these Constitutional Petitions are found to be without merit and are accordingly dismissed. It is, however, clarified that the observations made herein are confined to the determination of the questions raised before this Court and shall not prejudice the respective cases of the parties before the investigating agency or the competent Court, which shall proceed strictly in accordance with law and decide the matter on the *basis of the material and evidence brought before them.*

■ View Full Judgment

CODE OF CIVIL PROCEDURE, 1908 O. VII RR. 11 AND 11-A, O. VIII, S. 151 — A PLEA FOR REJECTION OF THE PLAINT MUST BE RAISED IN THE WRITTEN STATEMENT; A SEPARATE APPLICATION IS BARRED, AND THE DISTRICT JUDICIARY IN PUNJAB IS DIRECTED TO GIVE EFFECT TO RULE 11-A

Muhammad Masood Tahir and another v. Amanah (Private) Limited through Chief Executive Abid Ali Butt and others

CIVIL REVISION DISMISSED IN LIMINE; COPY DIRECTED TO BE CIRCULATED TO ALL DISTRICT JUDGES IN PUNJAB FOR ONWARD TRANSMISSION TO THE COURTS UNDER THEIR ADMINISTRATIVE CONTROL; APPROVED FOR REPORTING

Civil Revision No. 54032 of 2026, Lahore High Court, Lahore (2026 LHC 6169) · Bench: Malik Waqar Haider Awan, J · Decided: 18.09.2026 (signed 28.09.2026) · Uploaded: 29.09.2026

FACTS

The respondent instituted a suit on 03.06.2017 for possession with specific performance of an agreement to sell dated 28.12.2013, with mandatory and permanent injunction. On 04.02.2026 — some eight and a half years later, by which time partial oral and documentary evidence had been recorded and the conclusion of the trial was in prospect — the petitioners moved an application under Order VII Rule 11 read with section 151 CPC for rejection of the plaint, contending that the agreement had not been signed by the plaintiff company through its Chief Executive but by defendant No. 6, who had denied execution, so that the suit was not maintainable. The learned Civil Judge Class-I, Lahore dismissed the application on 20.04.2026, holding that the plaint disclosed a cause of action and that the points raised would be decided after the recording of evidence. Before the High Court the petitioners relied on Akhtar Waheed v. Muhammad Hussain (2025 SCMR 551). Rule 11-A had been inserted in Order VII CPC by Notification No. 237/Legis/XI-Y-26 dated 15.08.2018 and Notification No. 250/Legis/XI-Y-26 dated 23.10.2020.

LEGAL ISSUE

Whether, following the insertion of Rule 11-A in Order VII of the Code of Civil Procedure, 1908, a defendant may seek rejection of the plaint by a separate application, and what course remains open to a defendant who wishes to press the objection.

HOLDING

The civil revision was dismissed in limine. Order VII Rule 11 in its original form contemplated rejection at the threshold where the defect was apparent from the plaint itself, but separate applications during the course of trial often resulted in interlocutory proceedings and delay. Rule 11-A was inserted to regulate that practice and requires the plea to be raised in the written statement, barring a separate application. The provision is to be read with the scheme of Order VIII, under which a period of thirty days is prescribed for the written statement so that the defence is brought on record at the earliest, enabling the court to frame issues and proceed to evidence, with power to strike off the right to file a written statement on default. The object is that the lis should proceed from pleadings to issues, evidence and adjudication without avoidable interruption. The defendant is not without remedy: he may press for the framing of an issue, and the trial court may, if it deems fit, decide the issue of maintainability first. On the facts, the application filed nearly nine years after institution and after partial evidence was a factor for procrastination, and deciding the case upon such an application would render the evidence redundant and shake the scheme provided in the Code. Akhtar Waheed was distinguished as relating to the appreciation of evidence.

LEGAL SIGNIFICANCE

Short, but with an administrative reach that makes it required reading for the civil bar in Punjab. Rule 11-A has been on the statute book since 2018, yet separate applications under Order VII Rule 11 continue to be filed and entertained as a matter of routine; the Court has now directed that a copy of the order be circulated to every District Judge in the Province for onward transmission to the courts under their administrative control, so that such applications are not entertained in a manner that delays the trial. Practitioners should take three points from it. First, the plea belongs in the written statement, and a defendant who omits it there cannot cure the omission by application later. Second, the remedy is not lost: an issue may be pressed and, if the trial court thinks fit, tried as a preliminary issue. Third, where evidence has been partly recorded, the objection is in any event unlikely to succeed, since allowing it would render that evidence redundant. The order is also a useful illustration of the courts' growing impatience with interlocutory applications deployed to procrastinate.

LEGAL PROPOSITIONS (VERBATIM)

> — *11-A. Separate application barred.- A plea for rejection of plaint under rule 11 may be raised by the defendant in his written statement and not by a separate application.*
>
> — *Nevertheless, the defendant can press for framing an issue in this regard and learned trial court, if it deems fit, can decide the issue regarding maintainability of the suit first before proceeding further.*
>
> — *Rule 11-A was introduced to prevent such procedural delay and to ensure that a plea under Order VII Rule 11 CPC is raised in the written statement rather than making a separate application.*

LEGAL PRINCIPLES EXPOUNDED

The object of Rule 11-A is to discourage a defendant from moving a separate application for rejection of the plaint so as to prolong the proceedings.

Source: *In the wake of above, it becomes crystal clear that the object of the legislature in introducing Rule 11-A in Order VII CPC is to discourage the defendant to the lis from moving separate application seeking rejection of plaint to prolong the proceedings.*

Authority: *Order VII Rule 11-A, Code of Civil Procedure, 1908; Notifications No. 237/Legis/XI-Y-26 dated 15.08.2018 and No. 250/Legis/XI-Y-26 dated 23.10.2020*

Where partial evidence has been recorded, deciding the suit upon an application under Order VII Rule 11 would render that evidence redundant and disturb the scheme of the Code.

Source: *Without prejudice to above, another aspect involved in the instant case is that partial evidence has been recorded, therefore, deciding the case on application under Order VII Rule 11 CPC would definitely amount to making the evidence redundant, which will shake the scheme provided in the CPC for trial and conclusion of the case.*

Authority: *Order VII Rules 11 and 11-A, Code of Civil Procedure, 1908*

OPERATIVE ORDER

> *As a corollary to the above, learned counsel for the petitioners has not been able to pinpoint any illegality, legal infirmity, jurisdictional defect, mis-reading and non-reading of record in the impugned order to which no exception can be taken in revisional jurisdiction. ... Before parting with this order, Office is directed to transmit a copy thereof to all the learned District Judges in Punjab for onward transmission to all the Courts under their respective administrative control, with a direction to take into consideration the provisions of Order VII Rule 11-A CPC, particularly while dealing with applications purportedly filed under Order VII Rule 11 CPC, so that the legislative intent underlying Order VII Rule 11-A CPC is given due effect and separate applications for rejection of plaint are not entertained in a manner that unnecessarily delays or procrastinates the trial.*

■ **View Full Judgment**

LIMITATION ACT, 1908 S. 5; INCOME TAX ORDINANCE, 2001 SS. 133, 133(8) — TIMELY INSTITUTION DOES NOT CURE A FAILURE TO REMOVE OFFICE OBJECTIONS WITHIN THE TIME ALLOWED; THE ABSENCE OF AN OFFICE OBJECTION AS TO LIMITATION AT THE STAGE OF RE-FILING CONFERS NO JURISDICTION TO IGNORE THE STATUTORY PERIOD

Commissioner Inland Revenue v. Messrs Gulf Packaging (Pvt.) Ltd. and others

APPLICATIONS UNDER SECTION 5 OF THE LIMITATION ACT DISMISSED; THE INCOME TAX REFERENCES, BEING BARRED BY LIMITATION, ALSO DISMISSED; APPROVED FOR REPORTING

I.T.R. No. 248815 of 2018 (with I.T.R. Nos. 248831 and 248825 of 2018), Lahore High Court, Lahore (2026 LHC 6128) · Bench: Muhammad Ajmal Zahid and Hassan Nawaz Makhdoom, JJ · Decided: 15.09.2026 · Uploaded: 28.09.2026

FACTS

The applicant department presented three Income Tax References on 13.01.2018, within the prescribed period of limitation. Office objections were raised. The References were re-filed on 12.11.2018, some ten months later. Applications under section 5 of the Limitation Act, 1908 were filed seeking condonation. The department contended that since the References had initially been presented within limitation, subsequent re-filing after removal of office objections could not render them time-barred; that the objections had been removed promptly but the office had failed to endorse the same within time; and that since no objection as to limitation had been raised by the office at the time of re-filing, the References ought to be treated as filed within time. The record showed a failure to comply with the office direction within the three days stipulated, no timely application for judicial extension of the period allowed for removal of objections, and no application for condonation moved contemporaneously with the delayed re-filing. A plea was also taken based upon a subsequent pronouncement of the Supreme Court.

LEGAL ISSUE

Whether a reference presented within limitation but re-filed long after the expiry of the time allowed for removal of office objections is saved by the original timely institution; and whether the absence of an office objection as to limitation at the stage of re-filing precludes the Court from applying the statutory bar.

HOLDING

The applications were dismissed and the References dismissed as barred by limitation. Limitation is mandatory and inflexible, and a litigant must provide a complete and credible explanation covering the entire period of delay. The assertion that objections had been removed promptly but that the office failed to endorse them in time was unsupported by sufficient material. The absence of a separate office objection regarding limitation at the stage of re-filing could not confer jurisdiction upon the Court to ignore the statutory period: limitation is a matter of law and cannot be extended merely because the office did not independently flag the defect. The applicant neither sought timely judicial extension of the period granted for removal of objections nor moved for condonation contemporaneously with the delayed re-filing, and thus failed to establish diligence or sufficient cause. The plea based upon a subsequent pronouncement of the Supreme Court was misconceived: that judgment did not create a new rule to be applied prospectively but reaffirmed the settled position as to the consequences of failure to remove office objections within the prescribed period, and a party cannot claim a vested right in a proposition of law authoritatively held to be otherwise. Once the institution is found barred, the Court is not required to enter into the merits.

LEGAL SIGNIFICANCE

A caution that every litigation department and law office should circulate. The practice of treating re-filing after office objections as a formality — on the footing that the original presentation was timely — is squarely rejected, and the two further props commonly relied upon are removed with it: that the office did not raise a limitation objection at re-filing, and that the delay lay with the registry rather than the party. The Court's observation that limitation is a matter of law, not a defect for the office to flag, is the operative sentence. Practitioners should note the three steps the Court identified as absent and which would have made the difference: timely compliance within the period allowed, a timely application for judicial extension of that period, and an application for condonation moved contemporaneously with the delayed re-filing rather than as an afterthought. The treatment of the subsequent Supreme Court pronouncement — as declaratory of the settled position and therefore governing pending matters, with no vested right in a contrary proposition — is of general application.

LEGAL PROPOSITIONS (VERBATIM)

— *Limitation is a matter of law and cannot be extended merely because the office did not independently flag the defect.*

— *The law of limitation operates independently of the merits of the underlying dispute, and an otherwise arguable case cannot furnish a ground for overlooking a statutory bar.*

— *Vigilantibus non dormientibus jura subveniunt*

— *The applicant cannot claim a vested right in a proposition of law which has been authoritatively held to be otherwise.*

LEGAL PRINCIPLES EXPOUNDED

Limitation is mandatory and inflexible, and a litigant must provide a complete and credible explanation covering the entire period of delay.

Source: *In short, limitation is mandatory and inflexible, and a litigant must provide a complete and credible explanation covering the entire period of delay; otherwise, the claim or proceedings are liable to be dismissed as time-barred.*

Authority: *Section 5, Limitation Act, 1908; Akhtar Nasir Ahmed v. Province of Punjab (PLD 2024 SC 1268)*

The law rewards diligence rather than indolence; condonation of delay is an exception and not the rule and requires convincing legal justification for the entire period.

Source: *Thus, the law rewards diligence rather than indolence, and condonation of delay is an exception and not the rule, which requires a convincing legal justification for the entire period of delay.*

Authority: *Secretary to Govt. of KPK, C&W Department v. M/s Parco Associates Govt. Contractors (PLD 2020 SC 371); Khushi Muhammad v. Fazal Bibi (PLD 2016 SC 872)*

The law of limitation is a statute of repose; once the prescribed period has expired a valuable right accrues to the opposite party which cannot be displaced except upon establishment of sufficient cause.

Source: *As recognized in the above authorities, the law of limitation is a statute of repose. Once the prescribed period has expired, a valuable right accrues to the opposite party, and such right cannot be displaced except in accordance with the statutory power of condonation and upon establishment of sufficient cause.*

Authority: *Section 5, Limitation Act, 1908; Ghulam Sarwar v. Province of Punjab (PLD 2025 SC 60)*

OPERATIVE ORDER

For the foregoing reasons, we find no sufficient cause warranting condonation of the delay. Accordingly, the applications under Section 5 of the Limitation Act, 1908, filed in the instant Income Tax Reference and connected Income Tax References No.248831/2018 and 248825/2018 are dismissed. Consequently, the aforesaid Income Tax References, being barred by limitation, are also dismissed.

■ **View Full Judgment**

PUNJAB PRE-EMPTION ACT, 1991 SS. 24, 30, 31; CODE OF CIVIL PROCEDURE, 1908 O. VII R. 6; LIMITATION ACT, 1908 SS. 4, 9 TO 18, 22, 29 — SECTION 30(B) IS SELF-EXECUTING: WHERE THE SALE IS BY MUTATION, LIMITATION RUNS FROM ATTESTATION AND IS NOT EXTENDED BY WANT OF THE PUBLIC NOTICE UNDER SECTION 31 OR BY LATE KNOWLEDGE

Samina Siddique v. Abdul Ghaffar Razzaq and two others

PETITION DISMISSED; DISMISSAL OF THE PRE-EMPTION SUIT AS BARRED BY LIMITATION UPHELD; APPROVED FOR REPORTING

W.P. No. 13547 of 2026, Lahore High Court, Lahore (2026 LHC 5934) · Bench: Muzamil Akhtar Shabir, J · Decided: 17.09.2026 · Uploaded: 23.09.2026

FACTS

The suit land was sold through two mutations entered in the revenue record and attested on 21.11.2024, so that a suit for possession through pre-emption was required to be filed by 21.03.2025. The petitioner claimed that the sale had been made surreptitiously, that no public notice had been given by the revenue officer under section 31 of the Act, that she accordingly had no notice of the transfer, and that she acquired knowledge of the sale on 16.05.2025 at the suit land, whereupon she made Talb-e-Muwathibat at the spot and gave notice of Talb-e-Ishhad on the following day in the presence of witnesses. She then, without any explanation set out in the plaint, waited until 24.06.2025 to institute the suit. The plaint pleaded that the sale had been made surreptitiously but did not state, in terms of Order VII Rule 6 CPC, that this was done in order to deceive her or to deprive her of her right of pre-emption through concealment and fraud, and made no attempt to bring the case within sections 4, 9 to 18 or 22 of the Limitation Act, 1908. The Additional District Judge, Faisalabad allowed the respondent's revision and dismissed the suit as barred by limitation and for failure to deposit Zar-e-Soim within thirty days.

LEGAL ISSUE

Whether, where a sale is effected by attestation of mutation, the four-month period under section 30 of the Punjab Pre-emption Act, 1991 runs from attestation or from the pre-emptor's date of knowledge; and whether the failure of the revenue officer to give the public notice required by section 31 extends that period.

HOLDING

The petition was dismissed. Section 30 prescribes four distinct starting points, and paragraph (d) — the date of knowledge — is attracted only where the sale is not covered by paragraphs (a), (b) or (c). As the sale here was effected through attestation of mutation, paragraph (b) applied and the other paragraphs had no application; limitation therefore commenced on 21.11.2024. Section 30 is a self-executing provision, and the period could not be extended beyond four months from attestation merely because the petitioner did not timely acquire knowledge of the sale. By virtue of section 29 of the Limitation Act, 1908, which applies to special and local laws unless expressly excluded, a pre-emptor may claim the benefit of sections 4, 9 to 18 or 22; but, following Muhammad Ilyas v. Muhammad Bashir (PLD 2006 Lahore 365), he must under Order VII Rule 6 CPC state in the plaint the grounds upon which exemption from limitation is claimed, a requirement described as mandatory and foundational, without which no structure of proof can be raised. Applying Jahana v. Sher Muhammad (PLD 1961 Lahore 1042), mere concealment of a sale subject to the right of pre-emption does not imply fraud where the pre-emptor does not show that the vendors and vendees intended to deceive him. On this pleading the question of limitation could be decided summarily and was not a mixed question of law and fact. The question of Zar-e-Soim was not reached.

LEGAL SIGNIFICANCE

A disciplined and immediately usable statement of the limitation regime in pre-emption, and a natural companion to the Supreme Court's decision in Muhammad Niaz v. Raja Khush Dil Abbasi reported in the briefing of 21 September 2026 — the two together leave very little room for a pre-emptor who comes late. The essential points are three. First, the four starting points in section 30 are not alternatives from which a pre-emptor may choose: paragraph (d) is residual, and where the sale is by registered deed, mutation or delivery of possession, the corresponding paragraph governs. Second, the failure of the revenue officer to give the section 31 notice does not extend the period; the pre-emptor's remedy, if any, lies elsewhere. Third — and this is the practical trap — where a pre-emptor learns of the sale after the period has run, he must not only perform the Talbs promptly but must plead the grounds of exemption in the plaint itself under Order VII Rule 6, identifying the section of the Limitation Act relied upon and, where fraud or concealment is alleged, pleading an intention to deceive. A plaint that merely says the sale was 'surreptitious' will not do, and the omission cannot be repaired by evidence.

LEGAL PROPOSITIONS (VERBATIM)

— The limitation for filing the suit for pre-emption in terms paragraph (d) of Section 30 would commence from the date of knowledge only when the property was not sold through registered sale deed or attestation of mutation and in other cases when the vendee had not taken physical possession of the property in furtherance of sale.

— said limitation could not be extended beyond four months of attestation of mutation merely because the petitioner did not timely attain the knowledge of sale.

— where pre-emptor does not show that the vendors and the vendees had an intention to deceive him, mere concealment of sale subject to right of pre-emption does not imply fraud.

LEGAL PRINCIPLES EXPOUNDED

A pre-emptor claiming exemption from limitation must state in the plaint the grounds upon which the exemption is claimed; the requirement is mandatory and foundational.

Source: *But before a plaintiff of a pre-emption cause can take benefit of the said section, he according to Order VII, Rule 6, C.P.C. has to show and state in the plaint the grounds upon which the exemption from the limitation is claimed; this is mandatory and foundational in nature, without which no structure of proof can be raised.*

Authority: *Order VII Rule 6, Code of Civil Procedure, 1908; Muhammad Ilyas v. Muhammad Bashir (PLD 2006 Lahore 365); section 29, Limitation Act, 1908*

Where knowledge of the sale is acquired after limitation has expired, the pre-emptor must perform Talb-e-Muwathibat on the same date, Talb-e-Ishhad immediately thereafter, and file the suit without further delay, seeking exemption under Order VII Rule 6.

Source: *In that eventuality although the suit is already barred by limitation, the pre-emptor to lodge his claim has to immediately perform talb-i-muwathibat on the same date*

Authority: *Sections 30 and 31, Punjab Pre-emption Act, 1991; Order VII Rule 6, Code of Civil Procedure, 1908*

Limitation for a pre-emption suit runs from the date of attestation of the mutation and not from the date of its entry by the patwari.

Source: *would start to run from the date of attestation of mutation and not from the previous date on which the patwari has entered the same in the record, especially when possession had not delivered on the date when patwari made entry in record.*

Authority: *Inayat v. Altaf Ali (2005 SCMR 1123); section 30(b), Punjab Pre-emption Act, 1991*

OPERATIVE ORDER

For what has been discussed above, instant civil revision being devoid of merits is dismissed. No orders as to costs.

View Full Judgment

Sindh High Court

4 judgments

SALES TAX ACT, 1990 SS. 3(1), 3(1)(A), 13(1) AND SIXTH SCHEDULE ENTRIES 29 AND 107; LAW REFORMS ORDINANCE, 1972 S. 3 — ENTRY 107 EXEMPTS THE SUPPLY OF IODIZED SALT BEARING BRAND NAMES AND TRADEMARKS WHETHER OR NOT SOLD IN RETAIL PACKING, AND IS NOT CONDITIONAL UPON THE SUPPLIER HAVING IMPORTED THE SALT

Pakistan through Secretary Revenue and ex-Officio Chairman FBR and others v. M/s Shan Foods (Pvt.) Limited, Karachi

APPEAL DISMISSED; JUDGMENT AND DECREE OF THE LEARNED SINGLE JUDGE MAINTAINED SUBJECT TO CLARIFICATION; APPROVED FOR REPORTING

High Court Appeal No. 249 of 2019, High Court of Sindh at Karachi; 2026 SHC KHI 1835 and 1837 · Bench: Mohammad Abdur Rahman and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 24.09.2026 (heard 21.09.2026) · Uploaded: 24.09.2026

FACTS

The respondent was served with a show cause notice proceeding upon the premise that no exemption was available to its supplies of iodized salt, the officer taking the view that the relief for table salt extends only to bulk packing without a brand name. The notice confronted the respondent with entry 29 of the Sixth Schedule and made no mention of entry 107. In a suit on the original civil side, entertained on the footing laid down in Searle Solution (Pvt.) Limited v. Federation of Pakistan (2018 SCMR 1444) and upon a deposit of Rs. 38,048,727, a learned Single Judge set aside the show cause notice for the tax periods from July 2014 onwards by judgment dated 31.05.2019 and decree dated 13.06.2019, proceeding upon the Division Bench decision in Iqbal Hussain v. Federation of Pakistan (2010 PTD 2338). On appeal under section 3 of the Law Reforms Ordinance, 1972 the appellants contended that the word 'and' in entry 107 required the import and the supply to be read conjunctively, so that the exemption was available only to a person who had himself imported the salt. It was also recorded at the bar, uncontroverted, that exemption under entry 107 had earlier been allowed to the respondent, and that the Assistant Commissioner (Audit) had in an assessment order of 2018 proceeded on the footing that its supplies of salt were exempt, declining input tax on the referable packing material. A statement was filed after arguments annexing an order of the Supreme Court and relying upon Digicom Trading.

LEGAL ISSUE

Whether the exemption in entry 107 of the Sixth Schedule to the Sales Tax Act, 1990 for iodized salt bearing brand names and trademarks is confined to a person who has himself imported the salt, the words 'import' and 'supply' being read conjunctively; and whether the excluding words in entry 29 stand in the way of relief under entry 107.

HOLDING

The appeal was dismissed. Entry 107 exempts the supply of iodized salt bearing brand names and trademarks, whether or not sold in retail packing, and the exemption is not conditional upon the person making the supply having imported the salt. The excluding words in entry 29 withhold the relief which that entry confers and do not impose tax; they therefore do not stand in the way of relief under entry 107. The word 'and' in entry 107 is given its ordinary meaning, joining the two events in a single description of the relief, the disjunctive operation of the exemption coming from section 13(1) and from the heading of Table-1; in the alternative, and had it been necessary, the context requires the word to be read disjunctively. Applying Cape Brandy Syndicate, in a taxing statute one looks simply at what is clearly said, there is no room for intendment, and nothing is to be read in or implied — and it was the appellants' construction, not the respondent's, which asked the Court to read in and to imply. The earlier practice of allowing the exemption was not decisive, a practice of the department being unable to create an exemption the statute does not give, though it was some indication that the construction now pressed is not one the words naturally bear. The objection that the notice had confronted the respondent only with entry 29 failed, since an answer that the goods are relieved by another entry of the same Schedule is a defence to the premise of the notice and not a new cause of action. The statement filed after arguments did not affect the impugned judgment.

LEGAL SIGNIFICANCE

Of direct consequence to the food and consumer-goods sector, and a model of how an exemption entry should be construed. Three features deserve note. First, the Court's treatment of excluding words within an exemption entry: they withhold relief which that entry confers, and do not operate as a charge, so they cannot be deployed to defeat relief conferred by a different entry of the same Schedule. Second, the disciplined application of the rule against implication in a fiscal statute, turned back upon the Revenue — the party seeking to narrow an exemption by reading 'and' conjunctively was the party asking the Court to read in. Third, the observation that a departmental practice cannot create an exemption the statute does not give, and equally cannot prevent the department from applying the law correctly once an error is perceived, while remaining some indication of the natural meaning of the words; that is a balanced statement of the weight to be given to past assessments. The judgment also restates, usefully, the conditions on which a suit on the original side may be entertained against the tax authorities under Searle Solution, and expressly declines to enlarge that jurisdiction.

LEGAL PROPOSITIONS (VERBATIM)

— *The excluding words in entry 29 withhold the relief which that entry confers and do not impose tax.*

— *A practice of the department cannot create an exemption which the statute does not give, and cannot prevent the department from applying the law correctly once the error is perceived.*

— *An answer that the goods are relieved by another entry of the same Schedule is a defence to that very premise, and not a new cause of action.*

— *Taken at its highest, therefore, the statement removes from a list of citations a judgment which formed no part of the reasoning under appeal, and it leaves the construction of entry 107 untouched.*

LEGAL PRINCIPLES EXPOUNDED

Entry 107 exempts the supply of iodized salt bearing brand names and trademarks whether or not sold in retail packing, and is not conditional upon the supplier having imported the salt.

Source: *Entry 107 of the Sixth Schedule exempts the supply of iodized salt bearing brand names and trademarks, whether or not sold in retail packing. The exemption is not conditional upon the person making the supply having imported the salt.*

Authority: *Entry 107, Sixth Schedule, Sales Tax Act, 1990; section 13(1), Sales Tax Act, 1990*

In a taxing statute one looks simply at what is clearly said; there is no room for intendment, and nothing is to be read in and nothing implied.

Source: *It is the appellants' construction, and not the respondent's, which asks the Court to read in and to imply.*

Authority: *Cape Brandy Syndicate v. Inland Revenue Commissioners [(1921) 1 K.B. 64]*

A judgment which decided no question as to the conjunctive or disjunctive reading of statutory words is no authority upon that question.

Source: *The first is that Digicom Trading did not decide any question as to the conjunctive or disjunctive reading of the words "import" and "supply".*

Authority: *Sections 3(1), 3(1)(A) and 13, Sales Tax Act, 1990*

OPERATIVE ORDER

The appeal is dismissed. The judgment dated 31.05.2019 and the decree dated 13.06.2019 passed in Suit No. 938 of 2018 are maintained, subject to the clarification in paragraph 49 above. There will be no order as to costs.

■ **View Full Judgment**

INCOME TAX ORDINANCE, 2001 SS. 85, 105(1)(B) AND (C), 105(2) AND (3), 108, 133; INCOME TAX RULES, 2002 CHAPTER VI — SECTION 105(1)(C) DISALLOWS PAYMENTS BY A PERMANENT ESTABLISHMENT TO ITS HEAD OFFICE OR TO ANOTHER PERMANENT ESTABLISHMENT OF THE SAME NON-RESIDENT PERSON; A SEPARATELY INCORPORATED GROUP COMPANY IS NEITHER

The Commissioner Inland Revenue v. M/s GE Vernova International LLC

REFERENCE APPLICATIONS ANSWERED AGAINST THE APPLICANT AND DISMISSED; DELETION OF THE DISALLOWANCE UPHELD; APPROVED FOR REPORTING

Income Tax Reference Applications No. 432 to 435 of 2024, High Court of Sindh at Karachi; 2026 SHC KHI 1856 · Bench: Mohammad Abdur Rahman and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 25.09.2026 (heard 23.09.2026) · Uploaded: 25.09.2026

FACTS

The respondent is the Pakistan permanent establishment of a non-resident person, GEII USA. It paid a monogram fee, in the nature of a royalty for the use of marks, to GEC — a legal entity separate from GEII USA, though belonging to the same group. The Additional Commissioner disallowed the fee under section 105(1)(c) of the Income Tax Ordinance, 2001 for tax years 2019, 2020, 2022 and 2023, treating it as a head office expense, while in the same exercise allowing a technical licensing fee paid to other GE entities precisely because it was not paid to the head office. The assessment order also observed that the arrangement formed part of a profit shifting scheme, though the show cause notice had confronted the respondent under section 105(1)(c) alone. The Appellate Tribunal Inland Revenue, by a common order dated 23.08.2024, deleted the disallowance, finding on the agreements of 2013 and 2016, the related party notes in the audited accounts and the regulatory filings of the two companies that the fee was payable to GEC and not to the head office. The respondent had also relied before the forums below on the relevant double taxation convention.

LEGAL ISSUE

Whether a royalty paid by the Pakistan permanent establishment of a non-resident person to a separately incorporated company within the same group falls within section 105(1)(c) of the Income Tax Ordinance, 2001 as a payment to the head office or to another permanent establishment of the non-resident person.

HOLDING

The question was answered against the Revenue. Section 105(1)(c) speaks of the head office and of another permanent establishment of the non-resident person — each expression describing a part of the same non-resident person. A separately incorporated company is neither, even where it belongs to the same group and even where it is the parent or an affiliate. Clause (c) is a disabling provision which takes away a deduction that clause (b) would otherwise allow, and a law placing a disability applies only to cases clearly falling within its ambit, a rule applying with added force to a disabling provision in a fiscal statute; its reach cannot be extended by implication to payees whom the legislature has not named. The scheme of the Ordinance points the same way: where a payment is made to a related but separate person, the two are associates under section 85, and section 108 read with Chapter VI of the Income Tax Rules, 2002 provides a distinct mechanism for allocating income or deductions so as to reflect an arm's length result. Section 105(1)(c) is not a substitute for those provisions. The expression 'head office expenditure' in sub-sections (2) and (3) serves a different purpose and cannot carry the payment into clause (c). Whether the fee was paid to the head office or to some other person is a question of fact; the Tribunal is the last fact-finding forum and its findings are conclusive in the reference jurisdiction unless shown to rest on no evidence or to be perverse, and no such case was made.

LEGAL SIGNIFICANCE

Important for every multinational operating in Pakistan through a branch, and a decision the Department will find it difficult to work around. Section 105(1)(c) has been used with some freedom to disallow intra-group charges on the footing that a payment to any part of the group is in substance a payment to the head office; the Court has now held that the provision is confined by its terms to the head office and to other permanent establishments of the same non-resident person, and that separate incorporation is decisive. The reasoning is worth following closely: clause (c) is characterised as disabling, which imports the rule that a provision placing a disability applies only to cases clearly within its ambit — a construction principle of general use in fiscal work. Equally valuable is the identification of the correct route: a concern that a group charge is excessive or lacks commercial substance is to be pursued through the associates and arm's length machinery of sections 85 and 108 with Chapter VI of the Rules, not by recharacterising the payee. The Court's reminder that the factual identity of the payee is for the Tribunal, and that a shared name and a common group do not make two companies one person, will be cited in transfer pricing disputes generally.

LEGAL PROPOSITIONS (VERBATIM)

— Clause (c) is a disabling provision: it takes away a deduction that clause (b) would otherwise allow.

— The reach of clause (c) cannot, therefore, be extended by implication to payees whom the legislature has not named.

— Section 105(1)(c) is not a substitute for them

— A separately incorporated company is neither, even where it belongs to the same group and even where it is the parent or an affiliate of the non-resident.

LEGAL PRINCIPLES EXPOUNDED

A law which places a disability applies only to cases which clearly fall within its ambit, and a disabling provision is to be read according to its plain language; the rule applies with added force in a fiscal statute.

Source: *It is a settled rule of construction that a law which places a disability applies only to cases which clearly fall within its ambit, and that a disabling provision is to be read according to its plain language.*

Authority: *Hashim Ali v. The State (PLD 1963 (W.P.) Lahore 82); Matloob Ellahi Paracha v. Raja Arshad Mahmood (PLD 2024 SC 663)*

The Tribunal is the last fact-finding forum and its findings of fact are conclusive in the reference jurisdiction unless shown to rest on no evidence, or to be perverse or based on conjecture.

Source: *The Tribunal is the last fact-finding forum under the Ordinance, and its findings of fact are conclusive in the reference jurisdiction unless shown to rest on no evidence, or to be perverse or based on conjecture.*

Authority: *Section 133, Income Tax Ordinance, 2001; Collector of Sales Tax v. Qadbros Engineering (Pvt.) Ltd. (2023 SCMR 939)*

A shared corporate name and membership of a common group do not make two separately incorporated companies a single person.

Source: *A shared name and a common group do not make two companies one person.*

Authority: *Section 105(1)(c), Income Tax Ordinance, 2001; Snamprogetti Engineering B.V. v. Commissioner of Inland Revenue (2023 PTD 863)*

OPERATIVE ORDER

The reframed question is answered in the negative, that is, against the applicant and in favour of the respondent. It follows that the Tribunal was justified in deleting the disallowance of the monogram fee made under section 105(1)(c) of the Ordinance for tax years 2019, 2020, 2022 and 2023. ... Income Tax Reference Applications Nos. 432 to 435 of 2024 are answered in the above terms and stand dismissed.

■ **View Full Judgment**

SALES TAX ACT, 1990 SS. 7, 8, 47, 47A AS SUBSTITUTED BY THE TAX LAWS (AMENDMENT) ACT, 2024; INCOME TAX ORDINANCE, 2001 S. 134A; STATE-OWNED ENTERPRISES (GOVERNANCE AND OPERATIONS) ACT, 2023 SS. 2, 3 — RECOURSE TO ALTERNATIVE DISPUTE RESOLUTION IS MANDATORY FOR A STATE-OWNED ENTERPRISE, THE MONETARY THRESHOLD DOES NOT APPLY, AND THE PROVISION GOVERNS PROCEEDINGS PENDING WHEN IT CAME INTO FORCE

Pakistan Television Corporation Limited v. Collector of Sales Tax and Central Excise

REFERENCE APPLICATION DISPOSED OF; DISPUTE REFERRED TO THE FEDERAL BOARD OF REVENUE FOR CONSTITUTION OF A COMMITTEE; NO COERCIVE RECOVERY IN THE MEANTIME; APPROVED FOR REPORTING

Spl. Sales Tax Reference Application No. 122 of 2005, High Court of Sindh at Karachi; 2026 SHC KHI 1867 · Bench: Mohammad Abdur Rahman and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 23.09.2026 · Uploaded: 23.09.2026

FACTS

The applicant is a Government-owned company which telecasts programmes and sells commercial airtime. Advertisement on television was brought to tax with effect from 01.07.2000 under the Sindh Sales Tax Ordinance, 2000, which applied the Sales Tax Act, 1990 and the rules and notifications made under it mutatis mutandis to the collection and payment of that tax. On scrutiny of the applicant's record for the tax periods 2000-01 up to April 2001, the department took the view that input tax of Rs. 31,480,542 had been adjusted against output tax on advertisements contrary to section 8 read with S.R.O. 578(I)/98, including input tax on goods used in informative and entertainment programmes regarded as outside the taxable service. By Order-in-Original No. 001 of 2002 dated 29.01.2002 the Collector (Adjudication) held input tax on a range of items barred by the S.R.O., held central excise duty on telephone charges not adjustable, and allowed input tax on electricity and gas only to the extent consumed in the telecast of taxable advertisements. The Tribunal upheld that order on 24.06.2005. The reference was presented on 30.07.2005 and remained pending for over twenty-one years. At the hearing, counsel for the applicant requested that the matter be referred to alternative dispute resolution, the applicant being a state-owned enterprise; counsel for the respondent did not oppose.

LEGAL ISSUE

Whether, following the substitution of section 47A of the Sales Tax Act, 1990 by the Tax Laws (Amendment) Act, 2024, recourse to alternative dispute resolution is mandatory for a state-owned enterprise irrespective of the monetary threshold, and whether that provision governs proceedings which had been instituted long before the amendment came into force.

HOLDING

The reference was disposed of and the dispute referred for the constitution of a committee. The request concerned the forum rather than the merits and had to be examined before the questions proposed were taken up. The applicant, being a company incorporated under the companies law and owned and controlled by the Federal Government, falls within the definitions of 'company' and 'state-owned enterprise' in section 2 of the State-Owned Enterprises (Governance and Operations) Act, 2023 and within the application of that Act under section 3(1), no exclusion having been shown. The language of the first proviso to the substituted section 47A admits of no doubt: the monetary threshold which otherwise governs access to alternative dispute resolution is lifted for a state-owned enterprise, and recourse to the committee is made mandatory. By sub-section (2) the provisions of section 134A of the Income Tax Ordinance, 2001 and the rules made thereunder apply mutatis mutandis, providing for constitution of a committee by the Board, for recovery to be held in abeyance while the committee is seized, and, where the committee does not decide within the time allowed, for its dissolution, whereupon the enterprise may pursue its remedy before the appropriate forum. That the proceedings began long before the amendment makes no difference: section 47A regulates the forum and the procedure, takes away no vested right of either side and, if anything, confers a further avenue of resolution; a provision of that character governs proceedings pending when it comes into force. Nor does it matter that the levy was imposed under the Ordinance of 2000, which adopted the Act as the machinery for collection and payment. As the questions of law were not answered, no view was expressed on the merits.

LEGAL SIGNIFICANCE

A short judgment with immediate consequences for a large body of pending tax litigation. Every state-owned enterprise with a revenue dispute before the High Court or the Tribunal must now expect the matter to be routed to an alternative dispute resolution committee rather than adjudicated, and the monetary threshold provides no escape: the proviso makes the application mandatory. The Court's characterisation of section 47A as regulating forum and procedure, and therefore as governing proceedings pending when it came into force, is the reasoning that will be applied to comparable provisions in the other fiscal statutes; it also answers the obvious objection in a case, such as this, which had been pending for twenty-one years. The policy rationale is stated with unusual candour — disputes in which the Federal Government is in substance on both sides are to be resolved within the Government's own mechanism before they occupy the courts. Two protective features should be noted when advising a state-owned enterprise: recovery is held in abeyance while the committee is seized, and if the committee is dissolved without deciding, or the enterprise remains aggrieved, its remedy before the appropriate forum revives.

LEGAL PROPOSITIONS (VERBATIM)

— It concerns the forum rather than the merits, and it must be examined before the questions proposed are taken up.

— The language of the proviso admits of no doubt.

— That the present proceedings began long before the amendment makes no difference. Section 47A regulates the forum and the procedure by which a dispute is to be resolved.

— The legislative choice is plain: disputes between a State-owned enterprise and the revenue, in which the Federal Government is in substance on both sides, are to be resolved within the Government's own mechanism before they occupy the Courts.

LEGAL PRINCIPLES EXPOUNDED

For a state-owned enterprise the monetary threshold governing access to alternative dispute resolution is lifted and recourse to the committee is mandatory.

Source: *The monetary threshold which otherwise governs access to alternative dispute resolution is lifted for a State-owned enterprise, and recourse to the committee is made "mandatory".*

Authority: *Section 47A, Sales Tax Act, 1990 as substituted by the Tax Laws (Amendment) Act, 2024; section 2, State-Owned Enterprises (Governance and Operations) Act, 2023*

A provision which regulates forum and procedure and takes away no vested right governs proceedings pending when it comes into force.

Source: *It takes away no vested right of either side; if anything, it confers a further avenue of resolution together*

Authority: *Pakistan Television Corporation Ltd v. ATIR (2025 PTD 1575); Pakistan Railway Advisory & Consultancy Services v. AC (2025 PTD 1596)*

That the levy was imposed under a separate provincial enactment does not take the matter outside section 47A where that enactment adopted the Act as the machinery for collection and payment.

Source: *The Ordinance, 2000 adopted the Act as the machinery for the collection and payment of the tax, and the entire proceedings, from the show cause notice through adjudication and appeal to the present reference under section 47, have been conducted under that machinery by the federal department.*

Authority: *Sindh Sales Tax Ordinance, 2000 s. 3(3); sections 47 and 47A, Sales Tax Act, 1990*

OPERATIVE ORDER

> *This Reference Application is disposed of. In terms of section 47A of the Act read with section 134A of the Income Tax Ordinance, 2001, the dispute arising from Order-in-Original No. 001/2002 dated 29.01.2002, as upheld by the learned Tribunal on 24.06.2005, stands referred to the Federal Board of Revenue for the constitution of a committee. ... Until the committee has decided the dispute, no coercive measure shall be taken against the Applicant for the recovery of the amounts adjudged under the Order-in-Original, including the additional tax demanded through the recovery notice dated 18.07.2005.*

■ **View Full Judgment**

SINDH SALES TAX ON SERVICES ACT, 2011 SS. 17(3), 43, 44, 45, 63, 65 — DEFAULT SURCHARGE UNDER SECTION 44 IS STRICT AND COMPENSATORY; PENALTY UNDER SECTION 43 REQUIRES A DETERMINATION OF CULPABILITY ON THE RECORD OF THE ADJUDICATION

Sindh Revenue Board, Karachi v. M/s. Glaxo SmithKline Pakistan Limited, Karachi

FIRST QUESTION ANSWERED IN FAVOUR OF THE BOARD AND THE DEMAND OF DEFAULT SURCHARGE RESTORED; SECOND QUESTION ANSWERED IN FAVOUR OF THE TAXPAYER AND THE DELETION OF PENALTY MAINTAINED; ORDER OF THE APPELLATE TRIBUNAL MODIFIED ACCORDINGLY; APPROVED FOR REPORTING

Spl. Sales Tax Reference Application No. 436 of 2018, High Court of Sindh at Karachi; 2026 SHC KHI 1838 · Bench: Mohammad Abdur Rahman and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 25.09.2026 (heard 16 and 17.09.2026) · Uploaded: 25.09.2026

FACTS

The dispute concerned the levy on franchise services in respect of a royalty. The Order-in-Original recorded that a substantial part of the levy, Rs. 19,550,975, had been paid to the Federal Board of Revenue in the Federal excise mode and directed its recovery from that Board rather than from the respondent; that the incidence of the franchise levy had passed from the Federation to the Province with effect from 01.07.2011 upon the Eighteenth Amendment and the 7th NFC Award; and that the respondent's liability was bound up with a licence agreement executed in November 2013 with effect from January 2011. In its operative paragraph the Order-in-Original proceeded upon the single circumstance that the respondent had failed to deposit the sales tax on franchise services in the time or manner laid down, and imposed, 'taking a lenient view', a penalty of Rs. 10,000 under Serial No. 3 of the Table to section 43. It contained no determination that the failure was wilful, contumacious, dishonest or mala fide. The Appellate Tribunal, Sindh Revenue Board, by order dated 03.09.2018, deleted both the default surcharge and the penalty for want of mens rea.

LEGAL ISSUE

Whether the deletion of default surcharge under section 44 for want of mens rea was sustainable; and whether a penalty under section 43 may be imposed upon the bare fact of late payment, without any determination of culpability on the record of the adjudication.

HOLDING

The two questions were answered differently, and the distinction between the sections applied in a single case. On default surcharge, the liability under section 44 is a strict statutory liability of a compensatory character, attracted upon the occurrence of default whether deliberate, unintentional or inadvertent; absence of mens rea furnished no ground for deletion, and no power to waive resides in the fora under the Act save as provided in sections 45, 65 and 17(3). The demand was accordingly restored, its computation being a matter of arithmetic upon the dates of payment. On penalty, a penalty under section 43 may be imposed only where the department has established, upon the record of the adjudication, that the default was wilful, contumacious, dishonest or otherwise attended by mens rea. The Order-in-Original contained no such determination, and the very moderation of the sum, imposed by way of leniency rather than graded by reference to the gravity of any culpable conduct, confirmed that the quality of the default had not been adjudged at all. Nor was the record silent as to the circumstances in which the default arose. The Board's submission that the Tribunal ought to have found wilfulness encountered a difficulty of jurisdiction: whether a default was wilful is quintessentially a question of fact, or at its highest an inference of fact from facts, and no question alleging perversity, absence of evidence or misreading had been proposed in the reference.

LEGAL SIGNIFICANCE

The completion, in a single case, of the scheme the same Bench has now stated three times — in Sindh Revenue Board v. Fumicon Services (2026 SHC KHI 1646, reported 8 September 2026) on section 43, in the twelve connected Itecknologi references (2026 SHC KHI 1756, 1757 and 1759, reported 21 September 2026) on section 44, and here in both together. The practical rule is now settled and easily stated: a registered person who pays late answers in surcharge whatever his state of mind, and answers in penalty only where the adjudicating officer has found, and recorded, that his default was culpable. Two further points are of general use. First, the Court's reading of the penalty order itself as evidence that culpability was never adjudged — a penalty imposed by way of leniency rather than graded by the gravity of the conduct betrays the absence of any finding. Second, the jurisdictional answer to a revenue seeking a finding of wilfulness on reference: that is a question of fact for the Tribunal, and cannot be reopened unless perversity or absence of evidence is expressly raised as a question of law in the reference application. The observation that a person who pays the levy to the wrong exchequer may be in default without being culpable is a useful illustration in the many disputes thrown up by the post-Eighteenth Amendment transition.

LEGAL PROPOSITIONS (VERBATIM)

— *default and culpability are not the same thing, and it was the latter which the section required to be found.*

— *A penalty visited upon the bare fact of late payment, without any finding upon the culpability of the taxpayer, is precisely what Fumicon holds section 43 not to authorise.*

— *Whether a particular default was willful, contumacious or attended by mens rea is quintessentially a question of fact, or at its highest an inference of fact from facts.*

— *The facts as stated in the order of the Tribunal have to be taken as recorded.*

LEGAL PRINCIPLES EXPOUNDED

Default surcharge under section 44 is a strict statutory liability of a compensatory character, attracted whether the default be deliberate, unintentional or inadvertent.

Source: *The liability to default surcharge under section 44 of the Act, 2011 is a strict statutory liability of a compensatory character, attracted upon the occurrence of default whether it be deliberate, unintentional or inadvertent; absence of mens rea furnished no ground for its deletion, and no power to waive it resides in the fora under the Act save as provided in sections 45, 65 and 17(3).*

Authority: *Sections 44, 45, 65 and 17(3), Sindh Sales Tax on Services Act, 2011*

A penalty under section 43 may be imposed only where the department has established, on the record of the adjudication, that the default was wilful, contumacious, dishonest or otherwise attended by mens rea.

Source: *A penalty under section 43 of the Act, 2011 may be imposed only where the department has established, upon the record of the adjudication, that the default was willful, contumacious, dishonest or otherwise attended by mens rea.*

Authority: *Section 43, Sindh Sales Tax on Services Act, 2011; Sindh Revenue Board v. Fumicon Services (Pvt.) Ltd. (2026 SHC KHI 1646)*

The Appellate Tribunal is the final fact-finding forum, and its findings of fact cannot be disturbed on reference unless assailed through a question of law expressly raised in the reference application.

Source: *that as a final fact-finding body the Tribunal's finding of fact is conclusive, that the High Court cannot go behind it unless it is shown that there was no evidence upon which the Tribunal could properly arrive at its conclusion or that it misdirected itself in law, and that even in a case of no evidence the finding cannot be disturbed unless it is assailed through a question of law expressly raised in the reference application*

Authority: *Haji Ibrahim Ishaq Johri v. Commissioner of Income Tax (1993 SCMR 287); section 63, Sindh Sales Tax on Services Act, 2011*

OPERATIVE ORDER

The reference application stands disposed of in the above terms, with no order as to costs.

■ **View Full Judgment**