

E-News & Views

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January 2022 to March 2022

A publication covering information on recent important judicial pronouncements, circulars and clarifications

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PRESIDENT'S DESK

My Dear and Worthy Members,

The Jan-Mar 2022 Edition (First Edition) in your hand is the outcome of untiring effort of none other than Mr. Hameer Arshad Siraj a young dynamic Advocate and Convener of this Publication E-News and Views.

This Publication of E-News and Views of Karachi Tax Bar Association (KTBA) containing first hand information of Notifications / Circulars and important legal Judgements is a source of very important legal reference all aspects and very helpful for the members as a ready reference in making legal compliances of Federal and Provincial taxation matters.

The E-New and Views Committee worked very hard in putting in all data and I must appreciate and acknowledge the efforts of each and every member of this Sub-Committee for their effort and time to do their best in making this document a very useful one for the members of the Bar.

**“THE HARDEST THING TO UNDERSTAND IN THE
WORLD IS THE INCOME TAX”**

ALBERT EINSTEIN

God Bless you all

Syed Rehan Hasan Jafri

FROM THE DESK OF THE CONVENER

Dear Fellow Members,

It is my great pleasure to present the first publication of E-News & Views of this Committee.

We have compiled in this issue, Circulars, SROs and Notifications concerning revenue laws of the Country issued from January, 2022 till March, 2022.

This publication also covers circulars and notifications issued by the Sindh Revenue Board and the Securities & Exchange Commission of Pakistan. In addition to the aforesaid, synopsis of important case laws dealing with Income Tax, Sales Tax, Federal Excise Duty and Customs are also part of this publication.

We graciously welcome your suggestions and comments which would indeed help us in our pursuit of improving the readership as well as quality of this publication.

I am extremely grateful to the team of E-News & Views for completing the task. I am confident that this E-News & Views Committee will continue to be an informative publication for the respected members of our bar.

Yours in service,

Hameer Arshad Siraj

DIRECT TAX CIRCULARS AND SROs

Direct Tax Circulars

CIRCULARS REFERENCE	DATE	DESCRIPTION
11 of 2022	January 03, 2022	Extension in Deadline Stipulated Under Section 21(LA) of The Income Tax Ordinance, 2001
12 of 2022	January 16, 2022	Circular No. 12 of 2022 - Finance (Supplementary) Act, 2022 - Explanation of Amendments in Income Tax Ordinance, 2001

Direct Tax SROs

SRO REFERENCE	DATE	SUBJECT
05(I)/2022	January 05, 2022	Jurisdiction of Directors and Officers (DNFBPS)
50(I)/2022	January 13, 2022	Amendment in Rule 33G of the Income Tax Rules, 2002
118(I)/2022	January 20, 2022	Amendment in Rule 78 of the Income Tax Rules, 2002
128(I)/2022	January 25, 2022	Regarding Insertion of Sub-Regulations (4) and (5) in Regulation 3 of the Federal Board of Revenue Anti-Money Laundering and Countering Financing of Terrorism Regulations For DNFBPS, 2020
175(I)/2022	February 03, 2022	Amendment in Rule 33 G of Income Tax Rules, 2001
328(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Abbottabad
329(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Attock
330(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Bahawal Nagar
331(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Bahawalpur
332(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Chakwal
333(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of D I Khan
334(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Dg Khan
335(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Faisalabad
336(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Ghotki
337(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Gujranwala
338(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Gujrat
339(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Gwadar
340(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Hafizabad
341(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Hyderabad
342(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Islamabad
343(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Jhang
344(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Jhelum

SRO REFERENCE	DATE	SUBJECT
345(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Karachi
346(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Kasur
347(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Khushab
348(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Lahore
349(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Larkana
350(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Lasbela
351(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of MandiBahaudin
352(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Mansehra
353(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Mardan
354(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Mirpurkhas
355(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Multan
356(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Nankana Sahib
357(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Narowal
358(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Peshawar
359(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Quetta
360(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Rahim Yar Khan
360(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Rahim Yar Khan
361(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Rawalpindi
362(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Sahiwal
362(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Sahiwal
363(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Sheikhpura
364(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Sialkot
365(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Sukkur
366(I)/2022	March 02, 2022	Revision of Value of Immovable Properties of Toba Tek Singh
428(I)/2022	March 15, 2022	Amendment in SRO 342(I)/2022

Indirect Tax CIRCULARS AND SROs

Indirect Tax Circulars

CIRCULAR REFERENCE	DATE	DESCRIPTION
05 of 2022	January 18, 2022	POS Integrated Retailers - Implementation of Rule 150 ZEB (ii) of The Sales Tax Rules, 2006
06 of 2022	January 20, 2022	Circular No. 6 of 2022 - Finance (Supplementary) Act, 2022 - Explanation Of Important Amendments In Sales Tax Act, 1990 ICT (Tax on Services) Ordinance 2001 and Federal Excise Act 2005
07 of 2022	January 20, 2022	Circular No. 7 of 2022 - Explanation Of Important Amendment Introduced In The Sales Tax Act, 1990, Through Finance (Supplementary) Act, 2022 - Sales Tax On Supply Of Prepared Food, Food Stuff And Sweetmeats Supplied By Restaurants, Bakeries, Caterers And Sweetmeats Shops

Indirect Tax SROs

SRO REFERENCE	Dated	SUBJECT
01(I)/2022	January 03, 2022	Change In Rates of Sales Tax on Petroleum Products
39(I)/2022	January 08, 2022	Supersession of SRO 690(I)/2019 Dated 29th June 2019
43(I)/2022	January 10, 2022	Amendment In Sales Tax Rules, 2006
51(I)/2022	January 13, 2022	Amendment In Sales Tax Rules, 2006
88(I)/2022	January 18, 2022	Regarding Change In Rates of Sales Tax on Petroleum Products
169(I)/2022	January 31, 2022	Amendment In Sales Tax Rules, 2006
183(I)/2022	February 10, 2022	Change In Rate of Sales Tax on Petroleum Products
251(I)/2022	February 16, 2022	Rescinding SROS
252(I)/2022	February 16, 2022	Amendments In Sales Tax Rules, 2006
321(I)/2022	01 March, 2022	Change in Rate of Sales Tax On Petroleum Products

Indirect Tax Notifications- SRB

NOTIFICATION REFERENCE	Dated	SUBJECT
SRB-3-4/01/2022	January 24, 2022	Amendment made in Notification No.SRB-3-4/23/2021
SRB-COM-HYD/ACCI-UNIT-34/21-22/83093	February 01, 2022	Order for restoration of suspension
SRB-COM-II/AC-32/TO/2021/86493	February 11, 2022	Order for restoration of suspension
SRB-3-4/02/2022	February 14, 2022	Amendment In Notification No. SRB 3-4/23/2021
SRB-3-4/03/2022	February 21, 2022	Sindh Sales Tax Special Procedure (Online Integration of Business Rules, 2022)
SRB-3-4/07/2022	March 01, 2022	Amendment in Notification No. SRB 3-4/23/2021
SRB-3-4/06/2022	March 01, 2022	Amendment in Notification No. SRB 3-4/22/2021
SRB-3-4/05/2022	March 01, 2022	Amendment in Notification No. SRB 3-4/21/2021

SRB-3-4/04/2022	March 01, 2022	Notification
SRB-3-4/09/2022	March 14, 2022	Amendment in Notification No. SRB 3-4/06/2022
SRB-3-4/08/2022	March 14, 2022	Amendment in Notification No. SRB 3-4/23/2021
SRB/Admin/ T&P/2022/ 33075	March 22, 2022	Notification
SRB/Admin/ T&P/2022/ 33075	March 26, 2022	Notification
SRB/Admin(PF- 249)24-8/ 2021/34686	March 26, 2022	Notification
SRB 3-4/10/2022	March 28, 2022	Notification

Indirect Tax Circulars- SRB

CIRCULAR REFERENCE	Dated	SUBJECT
Circular No. 1	January 18, 2022	Extension in the last date for E-Deposit of Sindh Sales Tax for the tax period December 2021 and E-filing of tax return (Form SST -03 or Form SSTW -03 as the case maybe) for the tax period December 2021
Circular No. 2	February 16, 2022	Extension in the last date for E-Deposit of Sindh Sales Tax for the tax period January 2022 and E-filing of tax return (Form SST -03 or Form SSTW -03 as the case maybe) for the tax period January 2021

Circulars Issued by SECP

Notification Order No.	Dated	SUBJECT
01 of 2022	January 12, 2022	Master circular for Insurance sector
02 of 2022	January 20, 2022	Growth rate scenarios for life insurance and family takaful Illustrations-2022
03 of 2022	February 10, 2022	Categorization of open-end collective investment schemes
04 of 2022	February 23, 2022	Eligible requirement to register as trustee of open-end or Close-end scheme
05 of 2022	March 15, 2022	Inclusion of housing finance company (HFC) in government markup subsidy scheme (GMSS) for housing finance.

Notifications issued by SECP

Notification Order No.	Dated	SUBJECT
Notification	January 12, 2022	The Accounting Standard on 'Accounting for Common Control Transactions'
Notification	January 14, 2022	Delegation of power under Private Funds Regulation 2015
Notification	January 14, 2022	Notification - religious Board Modaraba
Notification	January 16, 2022	The draft amendments to the Securities Brokers (Licensing and Operations) Regulations, 2016,
Notification	January 18, 2022	Delegation of powers regarding VPS-NBFC & NE Regulations, 2008
Notification	January 19, 2022	New Instruments or investment, In addition to shariah compliant government securities

Notification	February 23, 2022	Draft amendments to the Insurance Companies (Sound and Prudent Management) Regulations, 2012
Notification	February 23, 2022	Amendments in the Securities Brokers (Licensing and Operations) Regulations, 2016

SYNOPSIS OF IMPORTANT CASE LAWS

DIRECT TAXES

CITATION	SECTION(S)	ISSUES INVOLVED
2022 PTD (Trib.) 524 (Appellate Tribunal Inland Revenue) Messrs Prime Agencies Vs. The Commissioner Of Inland Revenue, Zone-III, RTO-III, Karachi I.T.As. Nos.971, 972 and 973 of 2018. Decided on February 12, 2019	Sections 122(1), 122(5), 111(1)(b), 111, 122(9), 177, 2(28A), 4B, 154, 169, 116 of the Income Tax Ordinance, 2001	<p>In the Instant case the appellant is an exporter and has paid tax on exports under section 154 of the Ordinance, falling under final tax regime (FTR) in terms of section 169 of the Income Tax Ordinance, 2001. The appellant accordingly filed statements under section 115(4) of the Ordinance together with wealth statements and its reconciliation in the light of section 116 of the Ordinance.</p> <p>The learned DCIR on examination of wealth reconciliations observed that the appellant had claimed higher incomes in wealth reconciliations than the imputable income worked back on the basis of tax paid on exports under section 154 of the Ordinance. The DCIR accordingly worked out 'imputable income' based on the tax collected by the banks under section 154 on exports, covered under FTR in terms of section 169 of the Ordinance and arrived at impugned additions in all three tax years, treating the same as income from unexplained sources assessable under section 111 being the difference of income shown in wealth statement and the 'imputable income worked' out by him on the basis of tax collected under section 154. During the proceedings under section 122(1) the DCIR asked the appellant to produce books of accounts and documents for verification and examination in support of income declared in wealth statement. On failure of the taxpayer to produce books of accounts the DCIR finalized the impugned orders.</p> <p>Being aggrieved by the order of the DCIR being confirmed by the CIR(A), the Appellant challenged the same before the Appellate Tribunal Inland Revenue which allowed the appeal and annulled both the orders. The learned Tribunal held that definite information was not available with the DCIR and therefore the exercise was beyond jurisdiction. It was further held that alleged 'imputable income' was already declared by the appellant in the wealth reconciliation and hence was not definite information. The learned Tribunal also held that books of accounts could only be produced under section 177 whereas appellant was not selected for audit.</p>
2022 PTD 439 (Sindh High Court) Alpha Insurance Company Limited Vs. The Commissioner Of Income Tax Central Zone-A, Karachi I.T.R. No. 150 of	Section 65 and 136 of the Income Tax Ordinance, 1979.	<p>In the Instant case the applicant is a non-resident company engaged in insurance business. The original assessment for the year 1972-73 was made on 10.12.1974 under Section 23(3) of the Income Tax Act, 1922 (Repealed Act). Thereafter the department reopened the matter under Section 65 of the Income Tax Ordinance, 1979 (Repealed Ordinance), on the ground that the income tax paid and the taxes deducted at source of the applicant should not have been claimed as an admissible deduction, hence an incorrect relief was obtained by the applicant. Similar treatments were given in respect of the assessment years 1977-78, 1978-79 and 1979-80, as the assessment for these years were also reopened under Section 65 of the Repealed Ordinance on the same ground. Being aggrieved with the treatment meted out by the Assessing</p>

1997. Decided on December 03, 2020.		<p>Officer (AO) appeals were preferred before the Commissioner of Income Tax (Appeals) (CITA), who vide order dated 04.08.1986, pertaining to the assessment year 1972-73, and vide order dated 27.12.1988, pertaining to the assessment years 1977-78, 1978-79 and 1979-80, upheld the treatment of the AO and dismissed the appeals filed by the applicant. Being aggrieved with the orders of the CITA, appeals were preferred before the Income Tax Appellate Tribunal (ITAT), who also vide order dated 15.2.1993 dismissed the appeals filed by the applicant. Thereafter, Reference Applications (RA) were filed before the ITAT, who vide order dated 19.12.1993, referred the questions, under the advisory jurisdiction to the Honorable High Court.</p> <p>The Honorable High Court of Sindh held that the Tribunal was justified in confirming the order of CITA who rightly followed the decision reported as 1992 PTD 1177 and was justified in confirming the reopening of the assessment made under Section 65 of the Income Tax Ordinance, 1979.</p>
(2022) 125 Tax 193 (H.C. Lah.) (Lahore High Court) Commissioner Inland Revenue Vs. M/s. ZahidJee Fabrics LTD, Faisalabad PTR no: 281 of 2010 Decided on June 07, 2021	Sections 114(6), 114(6A), 120, 122, 122(3), 122(5A), 122(9), 133 and 133(5) of the Income Tax Ordinance, 2001.	<p>In this case, the Honourable High Court observed that revised return if competently filed by the taxpayer would have to be accepted and the original return filed loses its efficiency and becomes irrelevant to the extent of omission / wrong statement. The court further held that if revised return is filed in accordance with law, the adjudicating authority has no power to declare it to be invalid.</p>
(2022) 125 TAX 75 (H.C. Isl.) (Islamabad High Court) PKP Exploration Limited and another Vs. Federal Board of Revenue through Chairman, etc WP No. 886 of 2015 and 1077 of 2016 Decided on June 18, 2021	Article 199 of the Constitution of Pakistan, 1973	<p>Interestingly the Honourable Court held in this case that decision of the learned Tribunal is only binding to the parties involved in the appeal and is not a binding precedent for subsequent cases for purposes of any question of law that it decides while deciding appeals.</p>

CITATION	SECTION(S)	ISSUES INVOLVED
2022 PTD 232 (Supreme Court of Pakistan) Commissioner Inland Revenue and others Vs. Jahangir Khan Tareen & others Civil Petition No. 349-L of 2017. Decided on September 15, 2021	Sections 120 (1), 122(5), 122(5A), 210(1), 122(4), 122(9), 210 of the Income Tax Ordinance, 2001	<p>In the Instant case the Honorable Supreme Court of Pakistan held that the courts may only take up writs to challenge the show cause notice when it is found to be barred by law or abuse of process or when it is coram non judice. It was held that the High Courts must deprecate tendency of by passing statutory procedure and the normal rule should be that parties/taxpayers should proceed before the concerned authorities under the statute.</p> <p>It was held that the Respondent should raise all grounds of challenge to the show cause notice including the alleged jurisdictional error in the reply before the Additional Commissioner who shall after providing ample opportunity of hearing first establish the conditions laid down in Section 210 of the Income Tax Ordinance, 2001 with regard to the delegation of authority before he can proceed on the merits of the case. This petition was converted into appeal and allowed in the foregoing terms.</p>
2022 PTD 19 (Lahore High Court) Raza Motor Industries Vs. The Federation of Pakistan W.P. No. 37251 of 2021. Decided on September 22, 2021.	Section 177 of the Income Tax Ordinance, 2001	<p>In this Case the Petitioner contended that the Commissioner Inland Revenue (the Commissioner) before selecting the case for audit is required to call for record or documents from the taxpayer and also assign reasons for doing so. To support their case, the petitioners placed reliance on the proviso to section 177 of the Income Tax Ordinance, 2001. The Petitioners also pleaded that the discretionary power vesting in the Commissioner is unbridled and is required to be structured.</p> <p>The Honorable High Court held that In the present case as well as in all the connected cases, the Commissioner in the impugned notices has given reasons for summoning the record/documents and for selection for audit. The requirements of the proviso to section 177(1) have been met and, therefore, there is no occasion for the petitioners to be aggrieved of the notices issued to them and to challenge the same. In the circumstances, the writ petitions having no merits were dismissed.</p>
(2022) 125 TAX 55 (H.C. Lah.) (Lahore High Court) Pepsi Cola International (Private) Limited Vs. Federation of Pakistan WP No. 21602 of 2021. Decided on October 10, 2021	Sections 161, 161(3), 161(1A), 174 & 174(3) of the Income Tax Ordinance, 2001	<p>Show Cause Notices were issued to the Petitioner to provide documentary evidence and details of payments under section 161 of the Income Tax Ordinance, 2001 with respect to Tax Year 2014.</p> <p>The Honourable Court held that there is no obligation on the taxpayer to produce documents beyond six years as provided under section 174(3). It was further held that the burden lies on the respondents to justify demand raised and imposition of any liability and that any action taken beyond 6 years by the Commissioner will have to be justified in respect of the late action taken against the taxpayer.</p>

<p>2022 PTD 413</p> <p>(Islamabad High Court)</p> <p>Pakistan Oilfields Ltd. Vs. Federation Of Pakistan and Others Writ Petitions Nos. 1693 and 1694 of 2011.</p> <p>Decided on November 18, 2021</p>	<p>Section 122(5A), 122, 120, 121, 114, 6A(6), 122(1), 122(5AA) of the Income Tax Ordinance, 2001</p>	<p>The controversy, in this case, pertains to the tax years 2005 and 2006. The Petitioner filed income tax returns for the said years which were deemed to be the 'assessment orders', however, show-cause notices were issued on 14.02.2008 with respect to the issue of 'depletion allowance' and assessments for the tax years 2005 and 2006 were revised/amended under section 122(5A) of the Ordinance vide order dated 17.03.2008. The Petitioner, feeling aggrieved, filed appeals before Commissioner (Appeals), which were turned down, however, appeals were filed before Appellate Tribunal Inland Revenue which are still pending. Another set of show-cause notices was issued with respect to the same tax years, however, assessment orders amended pursuant thereto, were annulled by the Commissioner (Appeals) vide order dated 06.06.2009. The Petitioner was served with the notices with respect to same tax years for further amending the assessments and the same have been challenged through these instant petitions. The Honorable High Court held that the notices are not maintainable, as the same are barred under subsection (5AA) of section 120 of the Income Tax Ordinance, 2001.</p>
<p>2022 PTD (Trib.) 420</p> <p>Appellate Tribunal Inland Revenue</p> <p>Manzoor Ahmad Vs. Commissioner Inland Revenue, Zone II, RTO, Faisalabad I.T.A. No. 314/LB of 2015.</p> <p>Decided on December 20, 2021.</p>	<p>Section 131, 120, 122(9), 122(5A), 231A, 111(1)(d), 21(m), 111(1)(b) of the Income Tax Ordinance, 2001</p>	<p>The instant second appeal was preferred by the taxpayer under section 131 of the Income Tax Ordinance, 2001 against the Order dated 28.10.2014 passed by the Commissioner Inland Revenue (Appeals), Faisalabad wherein the learned Commissioner Inland Revenue (Appeals), rejected the appeal of the taxpayer and maintained the amended assessment made by the assessing officer. The Learned Appellate Tribunal allowed the appeal and annulled the orders passed by the Tax Authorities on the pretext that the appellant was not confronted with specific provisions of law in the show cause notice which renders the proceedings initiated as defective and nullity in the eyes of law.</p>
<p>2022 PTD 454</p> <p>(Supreme Court of Pakistan)</p> <p>Fawad Ahmad Mukhtar And Others Vs. Commissioner Inland Revenue (Zone-II), Regional Tax Office, Multan and another Civil Appeals Nos. 1521 to 1526 of 2018.</p> <p>Decided on February 09, 2022.</p>	<p>Sections 2(19)(a), 4(4), 4(5), 5, 8, 39, 150 of the Income Tax Ordinance, 2001</p>	<p>These matters arise under the Income Tax Ordinance, 2001 ("Ordinance"). They are cross appeals by both the taxpayers and the department against a judgment of the learned High Court dated 04.11.2013. The impugned judgment is reported as Commissioner Inland Revenue Multan v Ambreen Fawad 2014 PTD 320, PLD 2014 Lahore 72, 2014 CLD 272. The Honorable Supreme Court held that each tax year is a separate unit of account and taxation and the law has to be applied as it stood in respect of that tax year. It was further observed that section 150 of the Ordinance did not apply to a dividend in specie. The Honorable Supreme Court held that the conclusions arrived at by the Honorable High Court on the points raised before it were correct. Accordingly, all the appeals failed and are were dismissed.</p>

SYNOPSIS OF IMPORTANT CASE LAWS INDIRECT TAXES

CITATION	SECTION(S)	ISSUES INVOLVED
<p>(2022) 125 TAX 59 (Trib.)</p> <p>(Appellate Tribunal Inland Revenue)</p> <p>M/s Mujahid Oil Refinery (Pvt.) Limited, Karachi Vs. Commissioner, IR Zone-IV, LTU-II, Karachi</p> <p>Decided on January 07, 2020</p>	<p>Sections 3, 3(1A), 11, 11(2), 3(I) & 13 of the Sales Tax Act, 1990</p>	<p>Taxpayer/appellant imports edible crude oil, manufactures ghee and cooking oil and supplies locally. Proceedings were initiated by the Assessing Officer on the allegation that the applicant violated and misused the provisions of FBR's circular C. No. 1(3)/CEB/04 dated 20.04.2006 and the assessing officer reached the conclusion that the appellant collected FED/tax from buyers but failed to deposit such collected amount of FED in the Government Treasury. It was also alleged that the appellant also failed to charge further tax on such supplies made to unregistered persons.</p> <p>Decision:</p> <p>(A) It was held that vegetable ghee and cooking oil were not taxable supplies and were specifically exempt from levy of sales tax as well as from levy of Federal Excise Duty.</p> <p>(B) It was also held that these items were not subject to further tax.</p> <p>(C) The Court held that this was an unauthorized collection of FED and charge of further tax.</p>
<p>(2022) 125 TAX 257 (H.C. Quetta.)</p> <p>(Balochistan High Court)</p> <p>Collector Model Customs Collectorate, Custom House Gawadar at Gaddani Vs. Abdul Raheem</p> <p>Decided on July 23, 2020</p>	<p>Sections 168 & 181 of the Customs Act, 1969</p>	<p>Respondent filed appeal before Customs Appellate Tribunal Bench-II, Karachi who vide its judgement dated 01.01.2020 modified the order in original dated 28.03.2019 passed by Additional Collector, Collectorate of Customs (Adjudication) Custom House, Quetta and released the vehicle in question to the legal owner against 20% redemption fine on the custom value of the vehicle subject to revaluation. Being aggrieved by the judgment the department filed the instant reference.</p> <p>It was held by the Honourable Court that if admitted, the secret cavities of the seized vehicle were found loaded with foreign origin goods in commercial quantity (wholly used for the purpose of smuggling) then in light of SRO No. 499(I)/2009 dated 13.06.2009, no option could be given to the owner to pay fine in lieu of confiscation of the seized vehicle. It was further held that adjudication officer has rightly ordered confiscation of seized vehicle and that the release of vehicle upon imposition of 20% redemption fine is in violation of SRO and section 181 of the Customs Act, 1969.</p>
<p>(2022) 125 TAX 240 (H.C. Kar.)</p> <p>(Sindh High Court)</p> <p>Sami Pharmaceuticals (Pvt) Ltd and others Vs.</p>	<p>Rule 42(E) of the Sindh Sales Tax Rules, 2011</p>	<p>The Petitioners in this case were either service providers of labor and manpower and or its recipients and were aggrieved by Notification No. SRB-3-4/12//2017 dated 05.06.2017 issued by Sindh Revenue Board ("SRB") pursuant to which, proviso to Rule 42(E) of the Sindh Sales Tax Rules, 2011 ("2011 Rules") has been deleted/omitted and as a consequence thereof, now the Petitioners have been asked to pay Sales Tax on such services on the gross amounts of receipts, including the amounts which are reimbursed to the service providers in lieu of salaries</p>

Province of Sindh & others Decided on November 17, 2020		and wages etc. The Honorable Court held that the Issuance of invoice by service provider including service and re-imbursement – would not ipso facto render entire invoice amount to be taxed. It was observed by their lordships that as per Interpretation of statutes; rules which are merely subordinate legislation, cannot override or prevail upon the provisions of the parent statute. It was further held that even if the said proviso stands omitted, it is only the quantum and value of service which is taxable and not the amount being reimbursed by the service recipient.
(2022) 125 tax 203 (H.C. Kar.) (Sindh High Court) Karachi Golf Club (Private) Limited & others v. Province of Sindh & others Decided on March 10, 2021	Sections 2(79), 3 & 4(3)(b) of the Sindh Sales Tax on Services Act, 2011 Rule 42(2)(a) of Sindh Sales Tax on Services Rules, 2011	Question before the Court was whether membership/entrance fees and subscription charges (monthly and/or annual), received by clubs, from their members, fall within the purview of sales tax, per synchronized reading of the Sindh Sales Tax on Services Act 2011 with the Doctrine of Mutuality. Decision: (A) Discussion on Doctrine of Mutuality. (B) Held that Club membership fee cannot be considered taxable. (C) Subscription charges cannot also be considered taxable. (D) Circular issued by Board encumbering clubs with burden of taxability is dissonant with law to the extent of members' clubs. (E) Held that Sindh Revenue Board does not have legal sanction to recover any amounts from members' club.
2022 PTD 39 (Sindh High Court) Quality Steel Re-Rolling Mill Vs. Federation of Pakistan Decided on April 16, 2021	Section 74-A of Sales Tax Act, 1990 & SRO 583(I)/2017 dated 01.07.2017	Petitioners in this case challenged the vires of SRO 583(I)/2017 dated 01.07.2017. The Honourable Court held that SRO 583(I)/2017 dated 01.07.2017 is ultra vires and of no legal effect, being in violation of the law illuminated by the august Supreme Court of Pakistan in the case of Mustafa Impex reported in 2016 PLD SC 808.

CITATION	SECTION(S)	ISSUES INVOLVED
2022 PTD (Trib.) 392 (Appellate Tribunal Inland Revenue) United Finishing Mills Limited Vs. Commissioner Inland Revenue (Appeals-II), Lahore and another Decided on August 03, 2021	Section 11, 8, 45B of the Sales Tax Act, 1990	The learned Tribunal held that a bare reading of section 45B of the Act establishes that the learned Commissioner (Appeals) has no power to remand a case and go beyond the scope of powers vested in him under the law.
2022 PTD 345 (Sindh High Court) Commissioner Inland Revenue Vs. M/s. Filters Pakistan (Pvt) LTD Decided on October 18, 2021	Sections 11, 74 & 47 of the Sales Tax Act, 1990	In this case, question before the High Court was whether time frame prescribed under section 11(5) of Sales Tax Act, 1990 for issuance of show-cause notice could be extended by virtue of SRO 394(I)/ 2001 dated 21.05.2009 read with section 74 of the Sales Tax Act, 1990. It was held by the Honorable Court that such powers to extend time were only to be exercised in a manner where proceedings were pending or notice had be initiated. The court held that time limitation cannot be extended at belated stage when prescribed time had already lapsed.
(2022) 125 TAX 137 (S.C. Pak.) (Supreme Court Of Pakistan) Commissioner of Inland Revenue Vs. M/s. Mughal Board Industry Civil Petition No. 1026-L of 2019 Decided on November 02, 2021	Sections 34 & 34A of Sales Tax Act, 1990; SRO 606(I)/2012 dated 01.06.2012	The respondent registered person deposited the whole of the principal amount of sales tax payable in lieu of illegally adjusted input tax much before 01.06.2012 (date of the amnesty notification). The benefit of the amnesty notification was denied to the petitioner by the department on the ground that it was only applicable to registered persons against whom the principal amount of sales tax was outstanding on 01.06.2021. The Honorable Court held that Notification offers exemption of default surcharge and penalties, if only the principal amount of illegally adjusted sales tax is deposited by 25 th June, 2021. The Honourable Court further held that the other condition for availing amnesty notification is withdrawal of any case or complaint filed by the registered person against the department. It was observed that themain purpose of amnesty scheme is to incentivize payment and collection of stuck up tax revenue and that there is no justification to deny the benefit of the amnesty notification to the respondent taxpayer.

CITATION	SECTION(S)	ISSUES INVOLVED
<p>(2022) 125 TAX 142 (H.C. Kar.)</p> <p>(Sindh High Court)</p> <p>M/s Quick Contractor & Traders & another Vs. Federation of Pakistan & others</p> <p>Collector of Customs Vs. M/s Quick Contractor & Traders & another</p> <p>Decided on December 24, 2021</p>	<p>Sections 194C of Customs Act, 1969 & Import Policy, 2013</p>	<p>Facts:</p> <p>Respondents imported old and used truck-mounted crane. Apparently, there was no issue of its valuation, however, the department contested the importability on the touchstone of paragraph 9 of Import Policy Order 2013.</p> <p>Decision:</p> <p>(A) Appeals involving amount less than 0.5 Million may be heard by Single Member – Hence chairman was entitled to assign it to any of the Member of the Bench</p> <p>(B) Pre-shipment inspection report issued through agent is deemed to have been issued by the principal itself.</p> <p>(C) Objection being older than 10 years was nowhere taken, either in the show cause or before any of the two forums below – Question does not arise out of proceedings.</p> <p>(D) Objection of department insofar as two dissimilar brands/makes i.e crane and truck are concerned, would not be tenable.</p> <p>(E) No extraneous material can be taken into consideration in forming a view other than described in pre-shipment certificate, unless it is established otherwise.</p> <p>(F) Whether subject vehicle having two components of different makes are restricted by Import Policy Order 2013? The answer is in negative.</p>

Note: Members are advised to read complete Case laws, Circulars and SROs/ Notifications for better understanding of respective issues.