

E-News & Views

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A Publication of KTBA

July 2022 to September 2022

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

President Syed Rehan Hasan Jafri	S.No.	Description	Page No.
Vice President Syed Zafar Ahmed	1	From the desk of the President	2
Honorary General Secretary Arshad Ali Siddiqui	2	From the desk of the Convener	2
Joint Secretary Imran Ahmed Khan	3	Direct Tax Circulars	3
Librarian Irfan Ghafoor	4	Direct Tax SROs	3
Members Executive Committee Basir Bilal Khalid Farhan Mohib Hameer Arshad Siraj Haris Tufail Muhammad Rehan Siddiqui Muhammad Zeeshan Merchant Murtaza Qurban Razi Ahsan Shoukat Hussain Mirza Syed Faiq Raza Rizvi	5	Indirect Tax Circulars	5
	6	Indirect Tax SROs	5
	7	Indirect Tax Notifications- SRB	5
	8	Indirect Tax Circulars- SRB	6
	9	Circulars issued by SECP	6
	10	Notifications issued by SECP	6
E-News & Views Committee Hameer Arshad Siraj (Convener) Raeel Fatima Haris Tufail Muhammad Shabbir Asif Zafar Sarah Siddique Mughal Ammar Ather Saeed Faiz Ahmed	11	Synopsis of Important Case Laws Direct Taxes	7
	12	Synopsis of Important Case Laws Indirect Taxes	11

FROM THE DESK OF THE PRESIDENT

My Dear and Worthy Members

Third issue of E-News and Views publication is once again an outcome of the uniting efforts of our dynamic convener none other than Barrister Mr. Hameer Arshad Siraj.

It contains all the relevant current Notifications, Circulars and Legal Judgments which will help you as a ready reference to be quoted in your legal writings and communication to be done for your clients and related matters.

Hameer is a young, dynamic person whose Legal Acumen is at par excellence and his dedication towards work is highly commendable in all respect.

Once again, I would like to congratulate Hameer and his Team Members who worked tirelessly in assisting him in compiling the desired data in order to complete the task well in time to make this third publication the most beneficial and useful one for all the members of the Bar and the Tax fraternity.

Syed Rehan Hasan Jafri

FROM THE DESK OF THE CONVENER

Dear Fellow Members,

It is my great pleasure to present the third 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 July, 2022 till September, 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
15 of 2022-23	July 21, 2022	Finance Act, 2022 - Explanation of Important Amendments made in the Income Tax Ordinance, 2001
16 of 2022	September 30, 2022	Extension in Date of Filing of Income Tax Returns for Tax Year 2022 till 31st October, 2022

Direct Tax SROs

SRO REFERENCE	DATE	SUBJECT
1180(I)/2022	July 27, 2022	Revision of Value of Immovable Properties of Islamabad
1255(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Sahiwal
1256(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Khushab
1257(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Sargodha
1258(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Toba Tek Singh
1259(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of MandiBahaudin
1260(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Hafizabad
1261(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Gujranwala
1262(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Rahim Yar Khan
1263(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Bahawalpur
1264(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Bahawal Nagar
1265(I)/2022	August 01, 2022	Value of Immovable Properties of Haripur
1266(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Lasbela
1267(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Multan
1268(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Chakwal
1269(I)/2022	August 01, 2022	Value of Immovable Properties of Lodhran
1270(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Jhelum
1271(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Gwadar
1272(I)/2022	August 01, 2022	Revision of Value of Immovable Properties of Jhang
1570(I)/2022	August 22, 2022	Sub-rule (23dd) of Rule 13N of Income Tax Rules, 2002
1590(I)/2022	August 23, 2022	Exemption from Income Tax to the PM Flood Relief Fund 2022
1602(I)/2022	August 24, 2022	Revision of Value of Immovable Properties of Sheikhpura
1603(I)/2022	August 24, 2022	Revision of Value of Immovable Properties of Faisalabad
1610(I)/2022	August 25, 2022	Further amendments in SRO 1180(I)/2022 - Islamabad

SRO REFERENCE	DATE	SUBJECT
1612(I)/2022	August 26, 2022	Draft Manual Income Tax Return Form
1634(I)/2022	August 30, 2022	Exemption of Income Tax on Goods for Relied Operation for Flood Affectees
1639(I)/2022	August 31, 2022	Exemption of Income Tax on Import of Tomatoes and Onions
1733(I)/2022	September 13, 2022	Manual Income Tax Return Forms for Tax Year 2022
1734(I)/2022	September 13, 2022	Updation of Valuation of Immovable Properties (Rawalpindi)
1735(I)/2022	September 13, 2022	Updation of Valuation of Immovable Properties (Dera Ismail Khan)
1736(I)/2022	September 13, 2022	Updation of Valuation of Immovable Properties (Attock)
1768(I)/2022	September 27, 2022	Draft Amendments in Income Tax Rules 2002 - Rule13P(q), Rule 13L(d), Rule 13P(L), Rule 13N(5A)
1796(I)/2022	September 28, 2022	Specifying the functions, jurisdiction and powers of the Directorate General of Compliance Risk Management and its officers
1797(I)/2022	September 29, 2022	Capital Value Tax Rules, 2022

Indirect Tax CIRCULARS AND SROs

Indirect Tax Circulars

CIRCULAR REFERENCE	DATE	DESCRIPTION
09 of 2022-23	July 21, 2022	Finance Act, 2022 - Explanation of Important Amendments in Sales Tax Act, 1990, Federal Excise Act, 2005 and ICT (Tax on Services), Ordinance, 2001

Indirect Tax SROs

SRO REFERENCE	Dated	SUBJECT
1635(I)/2022	August 30, 2022	Exemption From Sales Tax on Import of Goods Received in the Event of Natural Disaster, Gift or Donation
1636(I)/2022	August 30, 2022	Exemption from Sales Tax on Import and Supply of Goods as Certified by NDMA and PDMA for Flood Affectees
1640(I)/2022	August 31, 2022	Exemption of Sales Tax on Import of Tomatoes and Onions

Indirect Tax Notifications - SRB

NOTIFICATION REFERENCE	Dated	SUBJECT
SRB-3-4/25/2022	July 04, 2022	Notification
SRB-3-4/26/2022	July 06, 2022	Notification
SRB-3-4/27/2022	July 06, 2022	Notification
SRB-3-4/28/2022	August 05, 2022	Notification
SRB-3-4/29/2022	August 05, 2022	Notification regarding jurisdictions and functions of the Commissionerates in SRB and units of the services sectors under the SRB Commissionerates
SRB-3-4/30/2022	August 05, 2022	Notification
SRB-3-4/31/2022	August 05, 2022	Notification regarding jurisdictions and functions of the Commissionerates in SRB and units of the services sectors under the SRB Commissionerates
SRB-3-4/32/2022	August 10, 2022	Notification
SRB-3-4/33/2022	August 15, 2022	Notification
SRB/Admin/Notification/7681	August 15, 2022	Notification
SRB-3-4/34/2022	August 18, 2022	Transfers and Postings in SRB ---- Amendments in Notification No. SRB-3-4/28/2022 DATED 5th August ,2022
SRB-3-4/35/2022	August 31, 2022	Transfers and Postings in SRB ---- Amendments in Notification No. SRB-3-4/28/2022 DATED 5th August ,2022
SRB-3-4/36/2022	September 13, 2022	Time Bound Notification of the Exemption of Sindh Sales Tax on the certain specified Services Provided in Relation to the Flood Relief Operations Carried Out in Sindh Province
SRB-3-4/37/2022	September 23, 2022	Amendment in notification No. SRB-3-4/28/2022 dated 5th August, 2022-----Jurisdiction of the Assistant Commissioners, SRB

Indirect Tax Circulars - SRB

CIRCULAR REFERENCE	Dated	SUBJECT
Circular No.03/2022	July 18, 2022	Extension in the last date for E-deposit of Sindh Sales Tax for the tax period June, 2022 and for E-filing of tax return (form SST-03 or form SSTW-03, as the case may be) for the tax period June, 2022
SRB/COM-I/2022-23	September 20, 2022	E-registration under section 24 of the Sindh Sales Tax on Services Act, 2011

Circulars Issued by SECP

Notification Order No.	Dated	SUBJECT
08 of 2022	August 17, 2022	Master Circular for Mutual Funds (MF), Collective Investment Schemes (CIS), Investment Advisory Services (IAS).

Notifications issued by SECP

Notification Order No.	Dated	SUBJECT
958(I)/2022	July 07, 2022	Amendments to the Securities Exchanges (Licensing and Operations) Regulations, 2016
959(I)/2022	July 07, 2022	Amendments to the Clearing House (Licensing and Operations) Regulations, 2016
962(I)/2022	July 07, 2022	Amendments to the Central Depositories (Licensing and Operations) Regulations, 2016
980(I)/2022	July 07, 2022	Amendments in 7 th Schedule Dated 04.07.2022
1011(I)/2022	July 15, 2022	Amendments in the Insurance Rules, 2017 (in Rule 12)
1010(I)/2022	July 18, 2022	Amendments to the Credits and Suretyship (Conduct of Business) Rules, 2018
1012(I)/2022	July 19, 2022	Amendments to the Insurance Rules, 2017 (IFRS 16 Related)
1015(I)/2022	July 22, 2022	Amendments in the Insurance Companies (Sound & Prudent Management) Regulations, 2012
1119(I)/2022	July 22, 2022	Draft Companies Regulations, 2022
1183 (I)/2022	July 27, 2022	Delegations of Powers (PRDD – Insurance)
1373(I)/2022	August 05, 2022	Amendments to 7th schedule.pdf Dated 02.08.2022
1374(I)/2022	August 05, 2022	Amendments to Company (Registration Offices) Regulations, 2018.pdf Dated 02.08.2022
1013(I)/2022	August 05, 2022	Amendments to the Code of Corporate Governance for Insurers, 2016
1014(I)/2022	August 05, 2022	Amendments in the Unit Linked Product and Fund Rules, 2015
1513(I)/2022	August 18, 2022	Amendments to the Insurance Rules, 2017 (Digital only Insurer and Micro-insurer)
1546 (I)/2022	August 19, 2022	Circular-Conditions of Investment by Modarabas in Real Estate under regulation 9 of the Modaraba Regulations, 2021.
1547(I)/2022	August 19, 2022	First Amendments Modaraba Regulations, 2021.
1436(I)/ 2021	September 08, 2022	Delegation of Powers – Cost Audit Regulations.
1437(I)/ 2021	September 08, 2022	Delegation of Powers – Cost Audit Regulations.

SYNOPSIS OF IMPORTANT CASE LAWS DIRECT TAXES

CITATION	SECTION(S)	ISSUES INVOLVED
2022 PTD 1535 (Sindh High Court) Commissioner Inland Revenue Zone-I Vs. M/S Excell Pakistan (Pvt.) Ltd. I.T.R.A No. 86 of 2017 Decided on November 20, 2020	Sections 20, 32, 34(1), 34(3), 122(5A) and 122(9) of Income Tax Ordinance, 2001.	<p>In this case question before the Honorable High Court of Sindh was whether exchange loss was an admissible deduction under Income Tax Ordinance, 2001.</p> <p>The Honorable High Court held that under the mercantile system of accounting the liability accrued in a year becomes eligible for deduction. It was further held that in the mercantile system of accounting any ascertained liability accruing to any person, with the reasonable apprehension that it would become payable, is an allowable deduction. In this case exchange laws arose due to the devaluation of the Rupee, had to be accounted for as an ascertained liability as per the accounting system employed by the taxpayer, therefore, was considered as a lawful deduction in the hands of the taxpayer.</p>
(2022) 126 TAX 107 (Sindh High Court) Pakistan Petroleum Ltd. Vs. Pakistan and Another Suit No. 1682 of 2014 Decided on February 23, 2021.	Sections 152, 172 (3), 172 (5), 207 (4) and 210 (1) of Income Tax Ordinance, 2001	<p>The brief facts of the case are that the Plaintiff was issued a show cause notice under section 172(5) of the Income Tax Ordinance, 2001 which was challenged on the basis that the show cause is not founded on any of the reasons listed in clauses (a) to (e) of section 172(3) and secondly that the Commissioner is empowered to pass the show cause notice and not the Deputy Commissioner.</p> <p>The Honorable High Court held that the show cause notice for declaring the plaintiff as a representative of a non-resident person is clearly premised on a transaction between the Plaintiff and that of the non-resident company, which transaction, according to the department, constitutes a 'business connection' within the meaning of sub-section (3)(b) of section 172. The Honorable High Court observed that while the show cause notice under section 172 is to be passed by the Commissioner, however, section 210 read with section 207 (4) allows the Commissioner to delegate certain powers or functions to any officer of Inland Revenue subordinate to him. The Honorable High Court dismissed the plaint on the grounds stated above and held that the plaint does not raise any ground that constitutes an exception (as pronounced in the case of Searle reported in 2018 SCMR 1444) to interfere in the exercise of jurisdiction by the special fora prescribed under the Income Tax Ordinance, 2001.</p>
2022 PTD 1263 (Islamabad High Court) Messer Pakistan Housing Authority Foundation Vs. The	Article 199 of the Constitution of Pakistan 1973	<p>The question before the Honorable High Court was whether recovery proceeding against the taxpayer (petitioner) can be made when petitioner's appeal and stay application was pending. In this case the petitioner had sought inter alia direction to decide its pending appeal and stay application pending before the Appellate Tribunal.</p> <p>The Honorable High Court held that unless there is adjudication by one independent forum, no recovery proceeding can be initiated against the</p>

<p>Commissioner Inland Revenue Appeal and others</p> <p>Writ Petition No 2069 of 2021</p> <p>Decided on June 16, 2021</p>		<p>taxpayer. Therefore, it was held that the impugned recovery notice be suspended and recovery proceeding be stopped until the final decision of the appeal.</p>
<p>(2022) 126 TAX 9</p> <p>(Supreme Court of Pakistan)</p> <p>Commissioner Inland Revenue, Zone-IV, Lahore Vs. M/S Panther Sports and Rubber Industries (Pvt.) Ltd.</p> <p>Civil Petition No. 1691-L of 2018</p> <p>Decided on September 21, 2021</p>	<p>Sections 158, 161, 161(1A) 165, 165(2B) and 174(3) of Income Tax Ordinance, 2001</p> <p>Rule 44(4) of the Income Tax Rules, 2002</p>	<p>The brief facts of the case are that the respondents were issued notices under sections 161(1A), 165 and Rule 44(4) of the Income Tax Rules, 2002 beyond the period of six years after the end of the tax year to which it relates as provided under section 174(3) of the Income Tax Ordinance, 2001. The said notices were successfully challenged before the Honorable Lahore High Court on basis of the case reported in 2016 PTD 2074 (Maple Leaf case).</p> <p>The Honorable Supreme dismissed the leave to appeal filed by the department and set aside the notices issued under sections 161(1A), 165 and Rule 44(4) of the Income Tax Rules, 2002 being ineffective and unenforceable for the reason that a taxpayer is only obliged to maintain the records under section 174(3) of the Income Tax Ordinance, 2001 for period of six years and that the taxpayer cannot be compelled to produce the record for a tax year beyond the period of six years as stipulated under section 174(3) of the Ordinance.</p>
<p>2022 PTD 1135 / (2022) 126 TAX 73</p> <p>(Lahore High Court)</p> <p>Commissioner Inland Revenue Vs. SUI Northern Gas Pipelines Limited</p> <p>P.T.R. No. 314 of 2013</p> <p>Decided on November 18, 2021</p>	<p>Section 8(5) of Oil and Gas Regulatory Authority Ordinance, 2002</p> <p>Section 20 of Income Tax Ordinance, 2001</p> <p>Section 23 of Income Tax Ordinance, 1979 (Repealed)</p>	<p>The question before the Honorable High Court was whether development charges under section 8 (5) of OGRA Ordinance, 2002 was claimable as an expense under head "Income from Business" of Income Tax Ordinance, 2001.</p> <p>The Honorable High Court while interpreting the provisions of OGRA Ordinance 2002, held that the development charges under the OGRA Ordinance is an claimable expense since the proviso given in section 8(5) of OGRA Ordinance, 2002 allows such expenditure to be an allowance under the Income Tax Ordinance,2001.</p>
<p>2022 PTD 1290</p> <p>(Balochistan High Court)</p> <p>Commissioner Inland Revenue Zone-I Regional Tax Office, Quetta Vs. Messrs. Saindak Metals Ltd. Quetta, Tax Payer</p> <p>Income Tax Appeal</p>	<p>Section 122 (2) and 122 (5A) of Income Tax Ordinance, 2001</p>	<p>The brief facts of the case are that the respondent (taxpayer) filed an income tax return for Tax Year 2006 on 30-12-2006 which was deemed to be an assessment order in terms of section 120(1) (b) of the Income Tax Ordinance, 2001. The issue before the Honorable High Court was with regard to an amended assessment order passed on 30-06-2012 under section 122 (5A) of the Income Tax Ordinance, 2001. As per Section 122(2) of the Income Tax Ordinance, 2001, the above deemed assessment order could only have been amended within five years from the date of the return filed.</p> <p>The Honorable High Court after examining the law, dismissed the reference while holding that the responded filed income tax return for year 2006 on 30-12-2006 and the assessment order in this case could</p>

<p>No. 01 of 2015</p> <p>Decided on December 8, 2021</p>		<p>only be amended within five years till 01-01-2012 however, the impugned amended assessment order was passed on 30-06-2012, therefore, barred by time limitation.</p>
<p>2022 PTD 1035</p> <p>(Lahore High Court)</p> <p>Commissioner Inland Revenue Vs. Toyota Walton Motors and others</p> <p>P.T.R. No 268 of 2014</p> <p>Decided on January 27, 2022.</p>	<p>Sections 114(6A), 112(9), 122 (5A) of Income Tax Ordinance, 2001.</p>	<p>The brief facts of the case are that the taxpayer had revised its income tax return under subsection (6) of section 114 of the Income Tax Ordinance, 2001 when the notice under section 122 (9) was issued. The department raised a query that the taxpayer should have followed the pre-conditions stipulated under subsection (6A) of section 114 since revision of return had been made in the year 2012. (Subsection (6A) of section 114 was inserted through Finance Act, 2010).</p> <p>On the other hand, the taxpayer contended that since the original return was filed in 2007, provisions of section 114, as they then were, would be applicable and that conditions of subsection (6A) of section 114 would not be attracted. The Honorable High Court held that since revised return was filed in 2012 amendments made in section 114 through Finance Act, 2009 and Finance Act, 2010 will be applicable and conditions of subsection (6A) of 114 should have been followed.</p>
<p>2022 PTD 1109</p> <p>(Supreme Court of Pakistan)</p> <p>Commissioner of Income Tax (Legal) Vs. Askari Bank Limited</p> <p>Civil Petitions No. 2597 to 2600 of 2020</p> <p>Decided on February 01, 2022</p>	<p>Section 23 of the Income Tax Ordinance, 2001</p>	<p>The question before the Honorable Supreme Court was whether the taxpayer is eligible of claiming deduction of initial allowance for an eligible depreciable asset (such as building) used by the taxpayer for the first time in a tax year.</p> <p>The Honorable Supreme Court after examining the section 23 of Income Tax Ordinance, 2001, came to a conclusion that the taxpayer is entitled of deduction of initial allowance since the asset (building) has been put into service by the taxpayer for the first time in a tax year.</p>
<p>(2022) 126 TAX 38</p> <p>(Lahore High Court)</p> <p>Commissioner Inland Revenue Large Taxpayer Unit, Legal Division, Lahore Vs. Syed Bhais Lighting Limited</p> <p>P.T.R. No. 628 of 2010</p> <p>Decided on March 07, 2022</p>	<p>Sections 161, 174 (3) and 205 of Income Tax Ordinance, 2001.</p>	<p>The brief facts of the case are that the Revenue's Reference application was directed against the Appellate Tribunal's order of 30.07.2010, which allowed the taxpayer's appeal by holding that notice under sections 161/205 were beyond limitation. The question before the Honorable High Court was whether the Appellate Tribunal was justified in prescribing a 4-year limitation for passing orders under section 161 by borrowing limitation as stipulated under section 156 of the Repealed Income Tax Ordinance, 1979.</p> <p>The Honorable High Court held that the Appellate Tribunal's decision is patently erroneous in so far as borrowing limitation from section 156 of the Repealed Income Tax Ordinance, 1979 is concerned. The Honorable High Court held that no limitation for the purposes of issuing notice was prescribed under Section 161, however, this does not imply that the time for invoking said clause is infinite and has to be read with limitation as prescribed under section 174 (following the ratio laid down in the case of Habib Bank Ltd reported in 2013 PTD 1659). The Honorable High Court concluded that because the notice in this case was within the limitation period (as provided under section 174), therefore, the reference was decided in favor of the Department and the matter was remanded back to the Appellate Tribunal.</p>

2022 PTD 1467 (Supreme Court of Pakistan) Farrukh Raza Sheikh Vs. The Appellate Tribunal Inland Revenue and others Civil Petition No. 1417 of 2022 Decided on July 28, 2022.	Section 132(2) of Income Tax Ordinance, 2001. Rule 22 (2) of Appellate Tribunal Inland Revenue Rules, 2010.	In this case the Honorable Supreme Court of Pakistan held that any order of dismissal of appeal on the ground of default gives rise to a new set of litigation on a technical issue which is totally unrelated to the tax controversy in hand, therefore, as per section 132(2) of Income Tax Ordinance, 2001 appeal should be decided on merits so that any further proceedings before a higher forum led to a decision on merit. The Honorable Supreme Court declared that Rule 22(1) of the Appellate Tribunal Inland Revenue Rules, 2010 is ultra vires section 132(2) of the Ordinance to the extent it allows the Tribunal to dismiss an appeal in default.
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SYNOPSIS OF IMPORTANT CASE LAWS INDIRECT TAXES

CITATION	SECTION(S)	ISSUES INVOLVED
<p>2022 126 TAX 88</p> <p>(High Court Peshawar)</p> <p>M/s. Taj Re-Rolling and Steel mills and others Vs. Government of Pakistan Through Federal Secretary Finance and others</p> <p>Decided on May 25, 2021</p>	<p>Section 7(1) of Federal Excise Act, 2005</p> <p>Entry No.151, 152 & 153 of the Sixth Schedule of Sales Tax Act, 1990.</p>	<p>The Petitioners in this case were persons belonging to the steel, ghee, and cooking oil industries. The Petitioners were aggrieved by Entry No. 152 of the Sixth Schedule of the Sales Tax Act, 1990, in which supplies of electricity were exempt from the levy of sales tax for all residential and commercial consumers of tribal regions, except for the persons engaged in steel, ghee, and cooking oil industries. It was argued on behalf of the Petitioners' that the steel, ghee, and cooking oil industries had been discriminated against other industries as the exemption provided under Entry No. 152 of the Sixth Schedule of the Sales Tax Act, 1990 was not available to them.</p> <p>The Honorable High Court ruled that the steel, ghee, and cooking oil industries has been put in a distinct class, as they were entitled to adjust the levy of sales tax against federal excise duty. The Honorable Court further held that no case of discrimination is found available in the impugned legislation since an intelligible differentia has been existing in the case of the subject classification having rational nexus to the object achieved.</p>
<p>2022 PTD 1180</p> <p>(Lahore High Court)</p> <p>Commissioner Inland Revenue Vs. M/s. Nishat Chunian Power Limited</p> <p>Decided on November 03, .2021</p>	<p>Section 8(2) of the Sales Tax Act, 1990.</p>	<p>The dispute in this case arose when input tax was allegedly adjusted for non-taxable Capacity Purchase Price (CPP) payments by the respondent Independent Power Producer, which alleged action, was refused by the department. The Court held that the issue in hand has already been settled in a previous judgment of Messrs. Pak Gen Power Ltd. v. Commissioner Inland Revenue (reported in 2017 PTD 495), which states that input tax can only be reclaimed for taxable supplies, as per Section 8(2) of the Sales Tax Act, 1990. The Honorable Court observed that the value of supply is defined as the Energy Purchase Price (EPP) received by the Independent Power Producer, and any amount received in excess of EPP is not deemed a component of the value of supply under Rule 13(3) of the Sales Tax Special Procedure Rules, 2007. The Court further held that the amount received on account of CPP is not part of the taxable supply, but since a different treatment was given by the Taxation Officer, the court refrained from giving a final opinion. Therefore, the Court set aside the judgment by the Appellate Tribunal and remanded back the case with a direction to reconsider the matter in light of the court's interpretation.</p>
<p>2022 PTD 1502</p> <p>(Lahore High Court)</p> <p>Unique Engineering Works (Pvt.) Ltd, through Chief Executive Vs. Federation of Pakistan through</p>	<p>Sections 11(A), 24 and 34 of Sales Tax Act, 1990.</p>	<p>The petitioner had challenged a proceeding under section 11(A) of the Sales Tax Act, 1990, where a notice was issued on 09.17.2021 to recover underpaid sales tax with default surcharge for the Tax Year 2006-2007. The petitioner argued that the notice was hopelessly time barred due to section 24 of the Sales Tax Act, 1990. The Honorable High Court agreed with the petitioner's argument and stated that section 24 of the Sales Tax Act, 1990 mandates that records be kept for six years, so any action must be taken promptly and any delay puts the burden on the Revenue Department to defend the demand and liability imposed. The petition was accepted with these conditions.</p>

Secretary, Ministry of Law, Islamabad and 3 others		
Decided on December 21, 2021		
2022 126 Tax 277 (Islamabad High Court) Allama Iqbal Open University Vs. Federation of Pakistan and others Decided on April 06, 2022	Sections 11(4), 33(5) and 34 of Sales Tax Act, 1990	In this case the Petitioner had filed a writ petition seeking the refund of Rs. 53.702 million which was wrongly deducted from the petitioner's bank account by the department during the pendency of second appeal before the Appellate Tribunal Inland Revenue. Brief facts are that the order-in-original was issued by the Officer Inland Revenue under Section 11(4) of the Sales Tax Act, 1990, alleging that the petitioner had failed to withhold sales tax on taxable purchases from unregistered suppliers. The petitioner filed an appeal which was dismissed by the Commissioner Inland Revenue (Appeals), but was later allowed by the Appellate Tribunal Inland Revenue. Thereafter, the petitioner requested the Chief Commissioner, Regional Tax Office to refund the deducted amount, but there was no response. The petitioner filed a complaint before the Federal Tax Ombudsman, which was turned down due to the pendency of a sales tax reference filed by the Department before the Honorable High Court. The Honorable High Court held that a mere pendency of a sales tax reference against the order of the Appellate Tribunal will not serve as a valid ground for the inaction on the Departments part to give the benefit of the already sanctioned refund to the petitioner. Interestingly the Honorable Court also held that due to the delay in processing the refund, the Department is also under an obligation to pay interest in accordance with the provisions of the Sales Tax Act, 1990.
2022 126 TAX 153/ 2022 PTD 1128 (Supreme Court of Pakistan) Commissioner Inland Revenue Vs. M/s. Sarwaq Traders, Rawalpindi and Another Decided on May 12, 2022	Section 45B (2) of Sales Tax Act, 1990	In this case it was held that Section 45B(2) requires an appeal to be filed within 30 days and decided within 120 days, with the possibility of a 60-day extension recorded in writing by the Commissioner Appeals. It was held that the obligation on the Commissioner (Appeals) for deciding an appeal within 180 days is mandatory and not directory. The Honorable court observed that the second proviso to section 45B(2) of the Sales Tax Act, 1990, limits the discretion by providing that the extension cannot be extended beyond 60 days. It was held that where a public authority is empowered to create a liability against a taxpayer, then such exercise of power must be performed within the prescribed time and any decision beyond such prescribed period is invalid and makes the order void.
2022 PTD 1491 (Sindh High Court) Pakistan Dental Association through President and others Vs. The Province of Sindh through Secretary Finance Sindh Secretariat,	Article 199 of Constitution of Islamic Republic of Pakistan, 1973.	In this case, the Sindh Revenue Board issued notices to the petitioners, which were challenged in writ jurisdiction. The Honorable High Court ruled that the mere issuance of a show cause notice seeking information should be addressed by the recipient with the issuing authority at the initial stages. The Honorable High Court also stated that a mere show cause notice does not typically create a cause of action, since it does not result in a decision that negatively impacts the rights of any party. The ruling of the Honorable High Court was based on a judgment of the Honorable Supreme Court of Pakistan in the case of Jahangir Khan Tareen (reported in 2022 SCMR 92).

Karachi and 3 others. Decided on May 18, 2022		
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Note: Members are advised to read complete Case laws, Circulars and SROs/ Notifications for better understanding of respective issues.