

# E-News & Views

NV # 002/2015

July 2015  
to  
December 2015

## A Publication of KTBA

A publication covering information on recent important judicial pronouncements, notifications, circulars and clarifications relating to corporate, indirect and direct taxes as well as provincial taxes

Managing Committee	Contents
<b>President</b> Mohammad Zubair	From the Desk of the President 2
<b>Honorary General Secretary</b> Muhammad Aleem	From the Desk of the Convener 2
<b>Vice President</b> Muhammad Rehan Siddiqui	<b>SECP – Corporate Circulars and SROs</b> 3
<b>Joint Secretary</b> Arshad Ali Siddiqui	<b>Direct Tax Circulars and SROs</b> 8
<b>Librarian</b> Syed Zafar Ahmed	<b>SYNOPSIS OF IMPORTANT CASE LAW</b>
<b>Members Executive Committee</b> Anwar Kashif Mumtaz Asif Haroon Haider Ali Patel Iqbal Ahmad Abdan Khalid Mahmood Muhammad Imtiazuddin Zubairi Muhammad Usman Dhedhi Syed Rehan Hasan Jafri Syed Wasimuddin Hashmi	<ul style="list-style-type: none"> <li>Sales Tax, Customs and Federal Excise 10</li> <li>Direct Tax 37</li> <li>Miscellaneous 41</li> </ul>
<b>E-News &amp; Views Committee</b> Arshad Siraj Muhammad Raza Syed Hassaan Naeem Yasmeen Ajani Zubair Abdul Sattar Mesia	

Dear Members,

It gives me immense pleasure in expressing my message at the culmination of my team's term of office. With this, we also present you with the 2<sup>nd</sup> issue of News & Views that covers SROs, Circulars and Case law that relate to corporate law, direct & indirect taxes as well as provincial sales tax laws that were issued/ reported during July to December 2015.

I am thankful to the entire members of the Bar who gave me and my team a chance to serve them and I can say with confidence that we have taken every possible step that we could take to meet with the expectations. The whole year, we have been highlighting core issues/ problems faced by the members to the FBR and at the same time tried to provide opportunity to our members to be more acquainted with the knowledge of tax laws and other important subjects. This publication, you would appreciate is a step towards this direction and I am hopeful, the members benefit from this contribution of ours.

I would like to congratulate the convener of News & Views and his team for their efforts in compiling and issuing the two issues of our valued journal. At the same time, I am hopeful that the incoming committee will continue doing this fantastic job of updating our members with the relevant knowledge of tax laws by compiling and issuing News & Views on more regular intervals.

Yours in service,

Mohammad Zubair

Dear Fellow Members,

It gives me immense pleasure to state that we have been able to compile the Second Edition of News & Views for the year 2015.

In this edition we have covered SROs, Circulars and case law published upto December 2015. I am extremely grateful to the team of News & Views for completing the task.

I trust and hope that the News & Views compiled by us will be of assistance to our entire Bar. I also hope that the incoming Committee will continue compiling and publishing this journal for the benefit of Bar members.

Sincerely,

Arshad Siraj Memon

**Note:** Members are advised to read complete Circulars and SROs/ Notifications for better understanding of respective issues

## SECP – CORPORATE

NOTIFICATION/ SRO REFERENCE	SUBJECT
S.R.O.636(1)/2015 Dated: 01 July 2015	Final Book Binding Regulations, 2015
S.R.O.649(1)/2015 Dated: 02 July 2015	Amendments in the Securities and Exchange Commission (Insurance) Rules, 2002
S.R.O.684(1)/2015 Dated: 15 July 2015	Directions from SECP that all public companies, in addition to the information required to be provided on their websites, shall place website link of SECP investor education portal "Jama Punji" <a href="http://www.jamapunji.pk">www.jamapunji.pk</a> along with its logo, at a prominent place on the homepage of their website
S.R.O.709(1)/2015 Dated: 27 July 2015	Research Analyst Regulations, 2015
S.R.O.722(1)/2015 Dated: 31 July 2015	Bancassurance Regulations, 2015
S.R.O.828(1)/2015 Dated: 18 August 2015	Amendments in the Securities and Exchange Commission (Insurance) Rules, 2002 in regard to minimum paid-up capital requirement of insurers
S.R.O.829(1)/2015 Dated: 18 August 2015	Small Dispute Resolution Committee (Constitution and Procedure) Rules, 2015
S.R.O.846(I)/2015 Dated: 25 August 2015	Amendments in the Companies (Easy Exit) Regulations, 2014 that these Regulations do not apply to a Company that has undertaken any business of housing, real estate development or real estate marketing since its incorporation
S.R.O.909(I)/2015 Dated: 03 September 2015	SECP approved curriculum for foundation course for Life and Non-life insurance agents or designated persons and minimum infrastructure/ training and faculty requirements for recognition of the institutes
S.R.O.928(I)/2015 Dated: 10 September 2015	Amendments in Fifth Schedule to the Companies Ordinance, 1984 for following specified International Accounting Standards or other standards by the Companies other than listed companies and their subsidiaries in regard to accounts and preparation of balance sheet and profit and loss account, as notified in the Official Gazette
S.R.O.929(1)/2015 Dated: 10 September 2015	Directions from SECP that all non-listed companies, as classified under the Fifth Schedule to the Companies Ordinance, 1984 to follow such Accounting and Financial Reporting Standards for preparation of balance sheet and profit & loss

NOTIFICATION/ SRO REFERENCE	SUBJECT
	account, with such modifications from time to time, and for which various classes, such as, (i) Public Interest Companies (PIC); (ii) Large Sized Companies (LSC); (iii) Medium Sized Companies (MSC); (iv) Small Sized Company; and (v) Companies Licensed/ Formed under section 42 and 43 of the Companies Ordinance, 1984 as specified
S.R.O.935(I)/2015 Dated: 15 September 2015	Amendments in the Stock Exchanges (Corporatization, Demutualization and Integration) Regulations, 2012
S.R.O.954(I)/2015 Dated: 22 September 2015	Electric Power Generation Industry (Cost Accounting Records) Order, 2015 specified
S.R.O.1002(I)/2015 Dated: 15 October 2015	Amendments in the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003
S.R.O.1032(I)/2015 Dated: 19 October 2015	Reporting and Disclosure (of Shareholding by Directors, Executive Officers and Substantial Shareholders in Listed Companies) Regulations, 2015
S.R.O.1041(I)/2015 Dated: 21 October 2015	Directions for all companies to publish contents of Directors' report, as required under section 236 of the Companies Ordinance, 1984 in English and Urdu languages from the period beginning on or after January 01, 2016
S.R.O.1044(I)/2015 Dated: 22 October 2015	SECP direction to all Public Interest Company; Large Sized Company and Public Interest and Large Sized Company licensed/ formed under sections 42 and 43 of the Companies Ordinance, 1984 designated in terms of the Fifth Schedule, to appoint a Chartered Accountant Firm which holds satisfactory rating under the Quality Control Review (QCR) Program of ICAP and also should facilitate their statutory external auditors in QCR of their audit working paper files, by authorizing them to make available all the relevant information/ documentation/ records to the Quality Assurance Department of ICAP
S.R.O.1045(I)/2015 Dated: October 22, 2015	Amendments made in the Securities and Exchange Commission (Insurance) Rules, 2002
S.R.O.1046(I)/2015 Dated: 22 October 2015	Amendments in the Takaful Rules, 2012
S.R.O 1053(I)/2015 Dated: 28 October 2015	Filing Fee of Statement of beneficial ownership and annual returns under sections 102, 103 and 107 of the Securities Act, 2015 specified in case of online submission at Rs.3,000/- and Rs.5,000/- in case of physical submission
S.R.O 1157(I)/2015 Dated: 23 November 2015	Directions to all companies limited by shares and every company limited by guarantee and having share capital to publish the instrument appointing a proxy, as given in Para 39 of Table A of the First Schedule to the Companies Ordinance, 1984 in English as well as in Urdu language with effect from January 01, 2016

NOTIFICATION/ SRO REFERENCE	SUBJECT
S.R.O 1160(I)/2015 Dated: 25 November 2015	Amendments in the Non-Banking Finance Companies and Notified Entities Regulations, 2008
S.R.O 1222(I)/2015 Dated: 10 December 2015	Directions to all public listed and public unlisted companies to maintain the specified information in Urdu language along with English language on their websites with effect from January 01, 2016
S.R.O 1245(I)/2015 Dated: 16 December 2015	Powers and functions under sections 498, 195 and 484(1) of the Securities and Exchange Commission Act, 1997 ("SECP Act") delegated to Executive Director, Corporatization and Compliance Dept., SECP
S.R.O 1253(I)/2015 Dated: 18 December 2015	Amendments in the Stock Exchanges (Corporatization, Demutualization and Integration) Regulations, 2012 providing for issue of Trading Right Entitlement Certificate (TRE)

CIRCULAR REFERENCE	SUBJECT
Circular No.23/2015 Dated: 02 July 2015	Necessary guidance to Insurers, including Takaful operators, for effective compliance of regulatory framework and maintenance of transparency in the reinsurance placements
Circular No.24/2015 Dated: 02 July 2015	Introduction of investors' education web portal named "JamaPunji", which is aimed at creating awareness among the public at large about saving, investing, financial planning and protection of the investors and the policyholders
Circular No.25/2015 Dated: 09 July 2015	Conditions on Window Takaful Operators related to Financial Reporting of their Window Takaful operations
Circular No.26/2015 Dated: 27 July 2015	Directions to all Asset Management Companies (AMCs) to ensure that where the offering document of the Collective Investment Scheme (CIS) permits charging of sales load, the cumulative sales load shall not exceed 3% of the NAV per unit and in this respect AMC shall ensure specified complete disclosures along with requisite documents
Circular No.27/2015 Dated: 03 August 2015	Compliance with the provisions of Bancassurance Regulations, 2015 issued vide SRO 722(I)/2015 dated July 31, 2015 advised
Circular No.28/2015 Dated: 10 August 2015	Conditions and requirements for grant of license or renewal thereof under section 42 of the Companies Ordinance, 1984 modified by Circular No.12/2011 dated 19-08-2011, Circular No.4 of 2015 dated 30-01-2015 and Circular No.5 of 2015 dated 30-01-2015
Circular No.31/2015 Dated: 02 September 2015	Intimation of insertion of Rule 9 in the Securities and Exchange Commission (Insurance) Rules, 2002 regarding minimum paid-up capital requirement for Insurers

CIRCULAR REFERENCE	SUBJECT
Circular No.33/2015 Dated: 07 September 2015	Mandatory minimum qualification requirement of Higher Secondary School Certificate or equivalent, prescribed for persons entering into Agency Contract with Insurer for Life and Non-Life Insurance
Circular No.34(I)/2015 Dated: 11 September 2015	Listed Insurance Companies directed to incorporate information message of Jamapunji while issuing Annual Accounts and Balance Sheet
Circular No.36/2015 Dated: 29 September 2015	Revised instructions for strict compliance with the provisions of section 32(2)(g) of the Insurance Ordinance, 2000 with effect from January 01, 2016
Circular No.37/2015 Dated: 07 October 2015	Course Outline for Training Managerial Level Personnel and Sales Force of Takaful Operators/ Window Takaful Operators and Minimum Infrastructural/ Training and Faculty requirements for approval of the Institution by SECP under Rule 28 of the Takaful Rules, 2012
Circular No.38/2015 Dated: October 09, 2015	United Nations 1267 Committee's Consolidated List of Individual and Entities regarding freezing of Funds and other resources/ matters
Circular No.39/2015 Dated: 03 November 2015	Updated information of United Nations 1267 Committee's Consolidated List of Individual and Entities regarding freezing of Funds and other resources/ matters
Circular No.41/2015 Dated: 05 November 2015	Intimation of amendment made in Rule 35 of the Securities & Exchange Commission (Insurance) Rules, 2002
Circular No.42/2015 Dated: 11 November 2015	Intimation of issue of the Securities & Exchange Commission (Reinsurance Brokers) Regulations, 2015 notified by SRO 1091(I)/2015 dated November 06, 2015
Circular No.43/2015 Dated: 10 December 2015	Public Listed Companies and Public Unlisted Companies directed to display all relevant information on their websites by following the sequential order of information under appropriate heads as provided in the relevant notification
Circular No.44/2015 Dated: 08 December 2015	Directions to all listed companies to ensure compliance with the requirements of section 204A(2) read with Share Registrar/ Ballotters and Transfer Agents Rules, 2015 by appointing share registrar/ BTA registered under BTA Rules, 2015 by December 31, 2015
Circular No.45/2015 Dated: 16 December 2015	Modifications of conditions for grant of license to Associations not for Profit under section 42 of the Companies Ordinance, 1984 or renewal thereof
Circular No.46/2015 Dated: 29 December 2015	Growth rate scenarios for Life Insurance and Family Takaful illustrations decided to be 6%, 8% and 10% for the year 2016 and onwards and as such, directions that all new illustrations effective February 01, 2016 should be made on the above scenarios

CIRCULAR REFERENCE	SUBJECT
Circular No.47/2015 Dated: 30 December 2015	Amendments in Circular No.9 of 2015 dated April 08, 2015 regarding mandatory certification for professionals of Capital Market
Circular No.48/2015 Dated: 31 December 2015	Amendments in Circular No.11 of 2015 dated April 13, 2015 regarding mandatory certification for the professionals of NBFCs
Circular No.49/2015 Dated: 31 December 2015	Amendments in Circular No.12 of 2015 dated April 17, 2015 regarding mandatory certification for the professionals of Modarabas
Circular No.50/2015 Dated: 31 December 2015	Directions to all companies to publish contents of Circular to be sent to the members along with the notice offering new shares as per SRO 223(I)/2015 in Urdu language in addition to English to facilitate the investors and to bring ease of comprehension, understanding and reliability. Further directed that the translation from English into Urdu should be functional and should not change the meanings of the words and expressions used therein. Technical terms used in English version may be borrowed while translating into Urdu provided such technical terms are commonly understandable and difficult to translate



## DIRECT TAX CIRCULARS AND SROs

NOTIFICATION/ SRO REFERENCE	SUBJECT
SRO 498(I)/2015 Dated: 24 July 2015	Sub-rule (2E) of Rule 73 of the Income Tax Rules, 2002 provides that in a non-company case, wherever refund of tax is claimed, income tax return and the refund application must be filed electronically. Through the SRO, this Rule will not be applicable for the tax year 2014
SRO 791(I)/2015 Dated: 11 August 2015	Through this SRO all individuals earning salary income are required to electronically file their returns of income effective from the tax year 2015
SRO 831(I)/2015 Dated: 21 August 2015	Through the circular FBR has amended that the active taxpayer list (ATL) shall be amended on a weekly basis  Further to Rule 81B of the Ordinance, a new Company or Association of Persons (AoP), which are formed on or after 30 June relevant to the tax year and therefore are not required to file the return of income, would be included in the ATL
SRO 964(I)/2015, Dated: 30 September 2015	The time period for applicability of the rate of 0.3% for collection of tax under section 236P of the Ordinance extended to 31 October 2015
SRO 877 Dated: 01 September 2015	Amendments in the Income Tax Rules, 2002 regarding income tax return forms, submissions of return on IRIS along with filing instructions for the tax year 2015
SRO 958(I)/2015 Dated: 30 September 2015	Rule 43B introduced which specifies the amount actually paid under section 158(c) of the Ordinance as - <ul style="list-style-type: none"> <li>▪ the amount paid by the person, as withholding agent;</li> <li>▪ amount paid on behalf of the person, as withholding agent;</li> <li>▪ amount paid at the instruction of the person, as withholding agent; and</li> <li>▪ gross amount payable by the person, as withholding agent, to the other person before netting off such payable against receivable from the said other person</li> </ul>
SRO 941(I)/2015 Dated: 18 September 2015	New forms for filing of monthly withholding tax statements under section 165 prescribed
SRO 1056 Dated: October 2015	Extension in the applicability of 0.3% withholding tax rate on non-cash banking transactions to 7 November 2015
SRO 1329(I)/2015 Dated: 31 December 2015	Further extension in the application of 0.3% withholding tax rate on non-cash banking transactions up to 31 January 2016



CIRCULAR REFERENCE	SUBJECT
Circular No.2 of 2015 Dated: 24 July 2015	Explanations provided for important amendments made in the Income Tax Ordinance, 2001 through the Finance Act, 2015
Circular No.3 of 2015 Dated: 13 August 2015	Extension in the date of filing of withholding tax statements under section 165(2) of the Ordinance till 15 September 2015
Circular No.4 of 2015 Dated: 25 August 2015	Clarifications regarding the Active Taxpayers List under the Income Tax Ordinance, 2001
Circular No.5 of 2015 Dated: 31 August 2015	Extension in the date of filing of income tax returns for the tax year 2015 upto 30 September 2015
Circular No.6 of 2015 Date: 15 September 2015	Extension in the date of filing of withholding tax statements for the tax year 2016 till 28 September 2015
Circular No.7 of 2015 Dated: 16 September 2015	Extension in the date of filing of withholding tax statements for the tax year 2016 till 8 October 2015
Circular No.8 of 2015 Dated: 30 September 2015	Extension in the date of filing of income tax returns for the tax year 2015 till 31 October 2015
Circular No.9 of 2015 Dated: 15 October 2015	Extension in the date of filing of withholding tax statements for the tax year 2016 till 31 October 2015
Circular No.10 of 2015 Dated: 21 October 2015	Clarification provided regarding genuineness of gift for applicability of section 236K
Circular No. 11 of 2015 Dated: 30 October 2015	Extension in the date of filing of income tax returns for the tax year 2015 till 30 November 2015
Circular 12 of 2015 Dated: 30 November 2015	Extension in date of filing income tax returns and statements of final taxation for the tax year 2015 till 31 December 2015
Circular 13 of 2015 Dated: 31 December 2015	Extension in date of filing income tax returns and statements of final taxation for the tax year 2015 till 31 January 2016

## SYNOPSIS OF IMPORTANT CASE LAW

### SALES TAX, CUSTOMS AND FEDERAL EXCISE

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 1 (H.C. Lah.)	Ss 11, 11A & 48 of the Sales Tax Act, 1990	In this case, several petitions were filed before Hon'ble High Court. The department had confronted petitioners for short paid amount of tax under section 11A contending that sales tax charged in the return has been incorrectly reflected.
2015 PTD 462 (H.C. Sindh)		The Hon'ble High Court has held that section 11A can only be invoked upon short payment of 'tax due indicated in the return'. In the present cases, the amount of tax due has been questioned for which statutory assessment is required under section 11. Accordingly, the cases have been decided in favour of petitioners.
2015 PTD 22 (H.C. Sindh)	S 196 of the Customs Act, 1969	<p>The question of law came for consideration before the Hon'ble High Court in this case was regarding the application of Valuation Ruling to pending proceedings.</p> <p>The respondent (importer) was contesting Valuation Ruling which was subsequently revised and benefit was given to importer by the Appellate Tribunal. The department raised the issue of applicability of Valuation Ruling during the pendency of the case.</p> <p>It has been held by the Court that the order passed by the Appellate Tribunal is legal and holds the field. The matter thus, has been decided in the favour of respondent.</p>
2015 PTD 30 (Trib.)	S 32 of the Customs Act, 1969  Rule 298 of the Customs Rules, 2001	<p>In this case, the appellant had obtained approval for import of Zinc to be used in the manufacture of goods (sanitary fitting) for export without payment of customs duty and sales tax.</p> <p>Later on, it was discovered by the Department that the appellant had exported copper coated wire instead of sanitary fittings and found the appellant guilty of misusing and abusing the facility of DTRE.</p> <p>The Tribunal held that the appellant was duty bound to adhere to the promise made in the application of exporting sanitary fittings and that a misdeclaration was made which tantamount to fiscal fraud.</p> <p>The Tribunal upheld the order of the adjudicating authority.</p>
2015 PTD 63 (Trib.)	Ss 8(2), 7, 2(46), 11(2), 33, 34 & 71 of the Sales Tax Act, 1990  Chapter III of Sales Tax Special	<p>The appellants are Individual Power Producers (IPPs) and engaged in the production and supply of electricity to WAPDA. The dispute is regarding apportionment of input tax between 'taxable' and 'non-taxable' supply specifically against Capacity Purchase Price (CPP).</p> <p>The Department confronted IPPs on the contention that since CPP constitutes 'non-taxable supply', input tax claimed must be restricted to the 'taxable supply' only whereas IPPs have claimed entire input tax.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
	Procedure Rules, 2007	<p>Contrary to the inference drawn by the Department, the appellants contended that CPP is a segment of tariff/ sale consideration of electricity and is one of the component of consideration for taxable supply, hence no apportionment is required.</p> <p>The appeals were rejected and order in original as well as order in appeal have been upheld.</p>
2015 PTD 107 (S.C. Pak)	S 158 of the Customs Act, 1969	<p>In this case, Customs authority had information about an individual (appellant), who is Iranian National, stopped over in Karachi on route to Singapore as a transit passenger that he would try to smuggle gold. The authorities searched him and found 85 bars of gold. The gold was seized and individual was served with show cause notices and penalty of Rs.500,000.</p> <p>The Hon'ble Lahore High Court had decided the case on the point of limitation and concluded that case was time-barred.</p> <p>The Hon'ble Supreme Court dismissed the appeal filed by the Revenue upholding the above decision of the High Court. It also held that the appellant was rightly searched and customs authorities had jurisdiction to search him when he was leaving the customs station.</p>
2015 PTD 134 (H.C. Sindh)	S 196 of the Customs Act, 1969	<p>In this case, Adjudicating Officer and Collector (Appeals) had decided 67 appeals through three combined orders-in-original and single order-in-appeal. The Appellate Tribunal set-aside the orders on the basis that the orders so passed were not speaking orders, therefore, adjudicating officer should pass orders afresh independently stating the facts of each case.</p> <p>Through this reference application, the appellant has challenged the order passed by the learned Tribunal contending that the orders should have been annulled on the basis of facts of the case instead of remanding back the issues.</p> <p>The Hon'ble High Court dismissed the application and upheld the order of the Tribunal.</p>
2015 PTD 152 (H.C. Lah.)	Ss. 2(46), 7(1), 20, 34, 47 & 73 of the Sales Tax Act, 1990	<p>Through this reference application, the Applicant (registered person) has agitated the order passed by the Appellate Tribunal whereby the input tax adjustment was not allowed to the Applicant and additional tax and penalty levied by the adjudicating officer were confirmed.</p> <p>The Applicant failed to provide proof of payment under section 73 of the Sales Tax Act, 1990. The High Court held that the registered person is allowed to claim such input tax adjustment for which he has received payment in accordance with section 73, and in the absence thereof, the Tribunal rightly denied the adjustment. The issue was decided against the Applicant.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 165 (H.C. AJ&K)	Ss. 25 and 72B of the Sales Tax Act, 1990	<p>In this case, the petitioner was required to furnish sales tax and federal excise record under section 25 of the Sales Tax Act, 1990. Subsequently, the case of the petitioner was also selected for audit under section 72B. The petitioner contended that the Adjudication Officer has no jurisdiction to conduct audit under section 25 of the Sales Tax Act, 1990 coupled with section 46 of the Federal Excise Act, 2005. Only FBR has power to select the case of a person for audit under section 72B of the Sales Tax Act, 1990.</p> <p>It was held that Commissioners and officers are authorized to ask any taxpayer to produce records and documents and powers of FBR (u/s 72B) never ousted the jurisdiction of the Commissioner (u/s 25).</p>
2015 PTD 175 (H.C. Lah.)	Ss. 3(1A), 2(41) & 13 of the Sales Tax Act, 1990	<p>The petitioners are engaged in manufacture and supply of exempt goods and were being charged 'further tax' under section 3(1A) of the Sales Tax Act, 1990. The petitioners contested that since they are not liable to obtain sales tax registration, therefore, not liable to pay 'further tax'.</p> <p>The petition was accepted and it was held that section 3(1A) is not applicable on the petitioners and 'further tax' paid by them be refunded.</p>
2015 PTD 181 (H.C. Sindh)	Ss 3, 14-A & 16 of the Customs Act, 1969	<p>In this case, Petition was filed by the owner of imported goods (trucks) which were seized by the Customs authorities without issuance of any show cause notice on the contention that trucks would be used for transportation of goods. Show cause notice was then issued during pendency of appeal and after four months of seizure.</p> <p>The petitioner contended that trucks were imported as specialized mounted machinery for use in construction projects.</p> <p>It was observed by the Hon'ble Court that objections raised by the Customs authorities were based on presumption and possibility of subsequent misuse of goods imported whereas Customs authorities were required to make assessment of goods on 'as presented' basis. The show cause notice issued at belated stage was declared void and directed to release the imports of the petitioner after payment of duties and taxes.</p>
2015 PTD 221 (H.C. Lah.)	<p>S 40B of the Sales Tax Act, 1990</p> <p>S 45(2) of the Federal Excise Act, 2005</p>	<p>In this case, the appellants/ petitioners challenged the proceedings initiated by the Authorities to monitor production, sales of taxable goods and stock position of the company. It was also contended that powers have been exercised without issuance of show cause notice.</p> <p>It was held that show cause notice was not required because the order under section 40B of the Sales Tax Act, 1990 and 45(2) of the Federal Excise Act, 2005 were not adverse orders against the taxpayers. The appeals/ petitions were dismissed.</p>
2015 PTD 231 (H.C. Pesh.)	Rule 6(1) of the Federal Excise Duty & Sales Tax on	Through this petition, amendment brought in Rule 6(1) of the Federal Excise Duty & Sales Tax on Production Capacity (Aerated Water) Rules, 2013 through SRO 140(1)/2014 was challenged with respect to its retrospective application. Through this amendment, input tax adjustment

CITATION	SECTION(S)	ISSUE(S) INVOLVED
	Production Capacity (Aerated Water) Rules, 2013	<p>in a month had been restricted to 72% of the gross amount of tax payable.</p> <p>It was held that rights already accrued in favour of a person under a valid law cannot be taken away through subordinate legislation. It has also been held that any beneficial subordinate legislation can be given retrospective effect.</p>
2015 PTD 245 (H.C. Sindh)	Ss. 3, 4 & 51 of the Sales Tax Act, 1990	In this case, issues relating to applicability of sales tax on lease of aircrafts have been discussed, however, the case has been decided through interim order
2015 PTD 313 (H.C. Lah.)	Ss. 73 & 47 of the Sales Tax Act, 1990	<p>In the reference application filed by the Department against the order of Appellate Tribunal, the department contended that the registered person (RP) was carrying out transaction through personal bank account instead of business bank account, therefore, same are not allowable under section 73 of the Sales Tax Act, 1990.</p> <p>The Appellate Tribunal held that business bank account must be one registered with the Department. In the instant case, the personal bank account of registered person was taken as business bank account and all transactions were made through banking channels, therefore, adjustment of input cannot be denied. The Hon'ble High Court upheld the decision of the Appellate Tribunal and decided the matter in favor of the registered person.</p>
2015 PTD 319 (Trib.)  (2015) 111 TAX 1 (Trib.)	Ss. 3, 2(23), 8, 12(2) & 14 of the Federal Excise Act, 2005	<p>In this case, the appellant (Department) had held 'Late charges' earned for the arrangement of financing facilities attracts federal excise duty (FED) similar to federal excise duty payable on brokerage services by stock brokers.</p> <p>The Appellate Tribunal upheld the decision of the Commissioner (Appeals) which held that late payment charges are not part of commission income and therefore not subject to FED.</p>
2015 PTD 349 (H.C. Sindh)  (2015) 111 TAX 389	<p>Ss. 14 &amp; 33 of the Sales Tax Act, 1990</p> <p>Ss. 13 &amp; 19 of the Federal Excise Act, 2005</p> <p>S. 203 of the Criminal Procedure Code (V of 1898)</p>	<p>The petitioner is an unregistered person (not liable to be registered) as he does not carry on any business of manufacturing or taxable activity. The personnel of DGI&amp;I raided business premises of the petitioner, arrested him, extorted two blank cheques, seized the goods and sealed the premises and registered F.I.R. against him.</p> <p>The petitioner contended that no show cause notice was issued for registration under the Sales tax Act, 1990 or the Federal Excise Act, 2005, nor the taxability was ever determined.</p> <p>The Hon'ble High Court quashed the F.I.R and all pending proceedings against the petitioner and held that the impugned F.I.R and the proceedings emanating therefrom are without lawful authority and officials of DGI&amp;I have acted without jurisdiction and in violation of express provision of law.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 360 (Trib.)	Ss. 11(2), 11(3), 3, 6, 7, 8A, 23, 26, 33, 34 & 73 of the Sales Tax Act, 1990  SRO No.283(I)/2011, 1012(I)/2011, 1058(I)/2011, 1125(I)/2011	<p>In this case, the Assessing Officer issued combined show cause notice under sections 11(2) and 11(3) of the Sales Tax Act, 1990. Section 11(3) was inserted vide Finance Act, 2012 and tax periods are pertaining to the year 2011.</p> <p>It was held that insertion of the sub-section adversely affected the right of the registered person as such, it would not be appropriate to apply it retrospectively. Further, sections 11(2) and 11(3) are different and independent thus issuance of combined notice under two different sections was fatal. The orders and show cause notices were declared illegal, void and without legal impropriety.</p>
2015 PTD 416 (Trib.)	Ss. 4, 3(1), 11(3) & 36 of the Sales Tax Act, 1990  SRO No.283(I)/2011, 621(I)/2005, 494(I)/2013, 1125(I)/2011	<p>In this case, the registered person is a manufacturer and supplier of zero rated goods (surgical instruments). The Assessing Officer issued combined show cause notice under S 11(2) &amp; 11(3) and determined sales tax liability at the rate of 16%/ 17% for the tax periods from July 2009 to June 2012.</p> <p>It was held that section 3 is a charging section but section 4 has an overriding effect on the provisions of section 3. Accordingly, surgical items shall be subject to sales tax at the rate of 0%, however, supply of notified goods made to unregistered persons shall be subject to sales tax at the rate of 16%.</p> <p>It was further held that penalty under section 33 cannot be imposed unless and until each and every sub-section of it is specifically confronted in the show cause notice. It would, otherwise, fall beyond the scope of show cause notice which would render it illegal.</p>
2015 PTD 560 (H.C. Lah.)	S. 186 of the Customs Act, 1969	<p>In this case, the imports of petitioner were first assessed and taxes and duties due were paid. Instead of releasing the consignment, the Customs authorities suspected that the goods imported are tin plates and not electrical silicon steel sheets. Samples were drawn and tested. Both the reports resulted in favor of the petitioner.</p> <p>The Hon'ble High Court allowed the petition and directed the Customs authorities to release the goods.</p>
2015 PTD 570 (H.C. Pesh.)  (2015) 111 TAX 344 (H.C. Pesh.)  2015 PTD (Trib.) 1183	Ss. 17, 156, 193, 194-A & 196 of the Customs Act, 1969	<p>In this case, vehicles were confiscated being either smuggled one or their certificate of registration/ bill of entry were suspected to be forged. Vehicles were examined through Forensic Science Laboratory and based on its report, they were detained. Appeals filed against confiscation were dismissed by the appellate authorities and High Court declined interference.</p>
2015 PTD 611 (Trib.)	Ss. 15, 17, 32, 79, 89, 156(1) & 194-A of the Sales Tax Act,	<p>In this case, the importer (respondent) was accused of infringement of the goods/ right/ trademark upon complaint lodged with Customs authorities received from a company claiming the alleged infringement of their rights to trademark.</p>



CITATION	SECTION(S)	ISSUE(S) INVOLVED
	1990  Ss. 53 – 57 of the Trade marks Ordinance, 2001	The Appellate Tribunal held that the complaint lodged was not in the manner as provided by the Trade Marks Ordinance and letter of complainant suggest issue of parallel imports rather than any infringement. The appeal was dismissed.
2015 PTD 687 (Trib.)	S. 194-B of the Customs Act, 1969	The appellant had filed rectification application for rectification of Order so as to rectify the error of excess assumption of jurisdiction.  The Tribunal perusing the contents of the application held that a judgment signed and announced could not be declared annulled, set aside or modified by means of rectification application.
2015 PTD 694 (Trib.)	S. 32, 79, 156 of the Customs Act, 1969	The appellant was accused of mis-declaration of origin of goods even in the presence of certificate of origin of goods. The assessing officer failed to prove the certificate as non-genuine.  The appeal was allowed.
2015 PTD 702 (H.C. Sindh)	S. 4 of the Sales Tax Act, 1990  SRO 670(I)/2013	The petitioner was issued Provisional Certificate in terms of Clause 2 of SRO 670(I)/2013 which inter alia provided that the certificate will be cancelled retrospectively if manufacturer had mis-declared or concealed any material fact.  Later on, the certificate was cancelled whilst alleging that the appellant did not have in-house manufacturing facility.  It was held that since provisional certificate was issued in terms of SRO 670(I)/2013, any condition attached could not go beyond the mandate of SRO. The CIR did not have any power to give retrospective effect to cancellation of certificate already issued. Petition was allowed.
2015 PTD 734 (H.C. Pesh.)	Ss. 3 & 13 of the Sales Tax Act, 1990  SRO 165(I)/2010 180(I)/2011	The issue relates to restriction of benefit provided in SRO 180(I)/2011 when taxpayer is entitled to benefit under both the SROs 165 and 180. The difference between 'benefits' provided under both the SROs was that the later was restricted to 50% of the leviable rate of sales tax while the former had no such restriction.  The high Court declared the SRO 180(I)/2011 illegal being based on 'mala-fide in law'.
(2015) 111 TAX 87 (Trib.)	Ss. 33, 34, 36 of the Sales Tax Act, 1990	In this case, appellant contested the ex-parte order passed by the DCIR before CIRA. The appeal was failed on point of limitation.  It was held that where limitation is concerned, it does not create a favor in right of other party, however, if appeal is time-barred, it is duty of the person approaching court to submit an explanation/application but no such application was filed by the appellant, the appeal, therefore, failed at this forum too.



CITATION	SECTION(S)	ISSUE(S) INVOLVED
(2015) 111 TAX 109 (S.C. Pak)	S. 196 of the Customs Act 1969	The issue was decided on point of limitation. The petitioner failed to proof that order had not been served on him, therefore, the order had been presumed to be served on him.
(2015) 111 TAX 133 (H.C. Pesh.)  2015 PTD 796	Ss. 14 & 16 of the Sales Tax Act, 1990 Rules 3 to 17 of the Sales Tax, Rules 2006	<p>In this case, the petitioner is engaged in supply coal and has not charged sales tax as a result of general practice. The question of law raised w.r.t. obligation for registration under Sales Tax Act, 1990, obligation to withhold sales tax and legal import of Section 65 of the Act.</p> <p>It was settled by the Court that persons mentioned in Rule 4 making taxable supplies are liable to registration and bound to pay sales tax and as regards to application of Section 65, it stated that the competent authority to allow the same is Federal Government which has to expeditiously proceed to decide the same in accordance with law. The case was remanded back to the Tribunal so to decide if petitioner is liable to registration under Rule 4 of the sales Tax Rules, 2006.</p>
(2015) 111 TAX 147 (Trib.)	Ss. 11, 25, 33, 34, 36 & 45A of the Sales Tax Act, 1990	<p>In this case, the adjudicating officer created demand based on presumptions and fishing enquiry.</p> <p>The show cause notice under reference is a second show cause notice. It was held that second show cause notice on the same issue and same basis for same period is illegal and void.</p>
(2015) 111 TAX 160 (H.C. Lah.)  2015 PTD 1207	Ss. 196, 156, 181, 196 of the Customs Act, 1969.  SRO 499(1)/2009	<p>The issue relates to confiscation of vehicle without giving option of redemption subject to fine under section 181 of the Act to pay fine in lieu of confiscated vehicle.</p> <p>The Court upheld the order of confiscation of seized vehicle and directed the adjudicating officer to give option to the petitioner to fine in lieu of confiscated vehicle.</p>
2015 PTD (Trib.) 753	Ss. 15, 16, 17, 82, 179(3) & 194A of the Customs Act, 1969	<p>In this case, the goods imported were confiscated by the customs authorities on the contention that importer failed to get clearance of imported goods within prescribed time limit.</p> <p>It was held that importer cannot be refused to get released the goods against payment of duties and taxes.</p> <p>The court held that the amendment requested was an obvious error which is liable to be corrected in terms of section 45(2) of the Act.</p>
2015 PTD 761 (H.C. Sindh)	S. 45 of the Customs Act, 1969	In this case, the importer had requested the customs authorities to change the information is the manifest of vessel showing the name of freight forwarder as consignee of the goods.

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		The adjudicating office did not make the corrections requested contending that the amendment requested was a major one and does not fall under section 45(2), therefore, cannot be granted.
2015 PTD 767 (H.C. Islamabad)	Ss. 3 & 5 of the Sales Tax Act, 1990  Finance Act, 2014	<p>The petitioner (importer &amp; exporter) involved in import/export of items covered under SRO 1125(I)/2011 subject to reduced rate of 5% which was subsequently enhanced to 17% vide SRO dated June 4, 2014.</p> <p>Owing to which, the petitioner was subject to 17% tax at import stage even before passing of finance bill.</p> <p>The appeals were allowed in the favor of petitioner while concluding that sales tax charged through said SRO w.e.f. June 4, 2015 to June 30, 2015 is declared null and void.</p>
2015 PTD 790 (H.C. Islamabad)	S. 13 of the Customs Act, 1969	<p>In this case, the petitioner was maintaining a private bonded warehouse. Its license was suspended by the customs authorities without issuance of show cause notice.</p> <p>The order suspending the license was declared illegal.</p>
2015 PTD (Trib.) 944	Ss. 16, 32 & 156 of the Customs Act, 1969	<p>In this case, ambulance imported was confiscated by the customs authorities on the ground that three items were not fitted in the ambulance and found in loose condition making it inadmissible for treatment available for imports of ambulance.</p> <p>It was held that only three out of eight items were declared in loose conditions which do not disentitle the treatment admissible to an ambulance.</p>
(2015) 111 TAX 221 (H.C. Lah.)  2015 PTD 1665 (H.C. Lah.)	Ss. 36, 36(3) & 47 of the Sales Tax Act, 1990	Through the reference application filed before Hon'ble High Court, the appellant raised a question of law for the first time i.e. the same was never raised before any appellate forum. The application was dismissed being beyond the jurisdiction of High Court.
(2015) 111 TAX 239 (H.C. Lah.)  2015 PTD 1351 (H.C. Lah.)	Ss. 20, 32, 79, 80, 81, 86, 98, 100, 111, 112, 108 of the Customs Act, 1969	In this case, the appellant imported 439 cases of machinery out of which 26 cases were destroyed by fire and remaining cases were removed from warehouse on payment of leviable duties. The Department, however, levied custom duty and sales tax along with default surcharge.

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		The Hon'ble High Court decided the matter in favor of appellant by extending the benefit of Section 108 to the appellant company.
(2015) 111 TAX 247 (H.C. Sindh)	Ss. 18 & 30 of the Customs Act, 1969.  SRO 18(1)/2015	In this case, plaintiff had imported various items where were recently added to the list of dutiable goods vide SRO 18(1)/2015 dated January 14, 2015. The plaintiff contended that the contract for purchase of goods and payments were finalized before the issuance of said notification, therefore, the goods be cleared without imposition of regulatory duty.  The Court dismissed the suit and held that plaintiff's import are subject to regulatory duty irrespective of the fact that the contracts were finalized before January 14, 2015.
(2015) 111 TAX 369 (Trib.)	Ss. 112 & 72B of the Sales Tax Act, 1990  SRO 549(I)/2008	In this case, the appellant had filed refund application followed by post refund audit whereby various discrepancies were observed.  The appellant contended that since none of the two prior condition for initiation of audit i.e. (i) selection of case by FBR under section 72B or; (ii) under section 25(2) were met, therefore the order is illegal to such extent.  The contention of appellant was not accepted on the grounds that audit under section Rule 36 is not dependent on selection by the Board.
(2015) 111 TAX 397 (Trib.)	Ss. 2(19),2(46), 3(1)(a) of the Sales Tax Act, 1990	In this case, appellant is a supplier of electricity. The issue relates to chargeability of sales tax on 'Subsidy paid to appellant by the Government'.  The Hon'ble Tribunal confirmed the treatment of the assessing officer by placing reliance on clarification of FBR in case of Oil Refineries, that sales tax shall be charged and paid inclusive of subsidy received from the Government.
(2015) 111 TAX 287 (H.C. Lah.)  2015 PTD 1330	Ss. 3, 5, 8B & 10 of the Sales Tax Act, 1990	In this case, it has been held that Appellate Tribunal is the last fact finding appellate forum and it should discharge its responsibilities diligently.
(2015) 111 TAX 295 (H.C. Lah.)	S. 40B of the Sales Tax Act, 1990  S. 45 of the Federal Excise Act, 2005	The appellants had contested that powers under section 40 B of the Sales Tax Act, 1990 and section 45 of the Federal Excise Act, 2005 have been exercised without any prior show cause notice.  It was held that the Chief Commissioner was competent to issue the orders without providing evidence before invoking Section 40B.

CITATION	SECTION(S)	ISSUE(S) INVOLVED
(2015) 111 TAX 310 (H.C. Lah.)  2015 PTD 1286	S. 25(4)/(6) of the Sales Tax Act, 1990	<p>Through this reference application, applicant has raised a question of law as regards to enhancement of value of imports for the purpose of custom duty by opting for secondary modes instead of primary modes where declared invoice value is paid under letter of credit through banking channel.</p> <p>The Court held that the customs value of the imported goods shall be transaction value under section 25(1) but by no means, is the final valuation. The custom authorities have the power to determine the transaction value if the value cannot be determined. In this case, the transactions had varying value in past few months and applicant failed to prove that the variation in value of imports is due to fluctuation in the international market, therefore, the application was dismissed.</p>
(2015) 111 TAX 405 (H.C. Lah.)	<p>Ss. 2(37), 3, 7, 8, 8A, 11,21 &amp; 33 of the Sales Tax Act, 1990</p> <p>Rule 12(5) of the Sales Tax Rules, 2006</p>	<p>In this case, refund claimed by a registered person was rendered inadmissible being input tax / refund of sales tax was adjusted against invoices issued by blacklisted units.</p> <p>Reliance was placed on the judgment of Division Bench of Lahore High Court whereby it was held that subsequent blacklisting will not disentitle purchaser from claim of input tax in respect of invoices issued when supplier was registered and active.</p>
(2015) 111 TAX 429 (H.C. Sindh)  (2015) 111 TAX 429 (H.C. Sindh)	<p>S. 202 of the Customs Act, 1969</p> <p>Rule 102 of the Customs Rules, 2001</p>	<p>In this case, the license of the petitioner (forwarding agent) was suspended and I.D was blocked by the Customs Authority without issuance of show cause notice and providing an opportunity of being heard. Procedure for initiating such proceedings was not adopted.</p> <p>The Hon'ble High Court set-aside the impugned order and start fresh proceeding against the petitioner in case of any default. It was also ordered to restore the license and de-block the ID.</p>
(2015) 111 TAX 443 (H.C. Lah.)	<p>Ss. 16, 32 of the Customs Act, 1969</p> <p>SRO 536(I)/2006</p>	<p>In this case, applicant-assessee had imported sugar from India. The value of imports were deliberately stated at \$282 per metric ton instead of \$ 440 per metric ton as fixed vide SRO 536(I)/2006.</p> <p>The Hon'ble High Court rejected the application and upheld the orders of ATIR and CIRA. It was also held that rate of sugar was wrongly mentioned in declaration which was also not correctly assessed.</p>
(2015) 111 TAX 466 (H.C. Lah.)	S. 40 of the Sales Tax Act, 1990	<p>In this case, the tax authorities raided the premises of petitioner and removed records contrary to mandate of law.</p> <p>It was contended that the basic requirement of section 40 of the Act is that an officer must have reason to believe that a search is necessary to obtain documents under pending proceedings.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		In this case, no proceedings were pending against the petitioner. The petition was, therefore, allowed and authorities were ordered to return all records so removed.
2015) 111 TAX 473 (H.C. Sindh)	S. 25D, 194-B & 194C of the Customs Act, 1969	<p>In this case, appeal filed by the petitioner before Customs Appellate Tribunal was decided on December 12, 2013 and reserved for order.</p> <p>On application for issuance of true copy of order, petitioner was served with notice of hearing again on directions of Chairman, Customs Appellate Tribunal for reasons that order has been passed after expiry of 90 days.</p> <p>It was held that Chairman has no authority to interfere with judgment or order already passed by a respective bench irrespective of the fact if such order would have been passed after expiry of three months from date when it was reserved for order.</p>
2015) 111 TAX 543 (Trib.)	<p>Ss. 25(2), 38 &amp; 57 of the Sales Tax Act, 1990</p> <p>Rules 5(3), 50, &amp; 3 of the Sales Tax Special Procedures Rules, 2006</p>	<p>The appellant is a registered as 'Retailer'. Proceedings were initiated based on the reports prepared by the staff officer who were not empowered by the concerned authority under section 25(2) of the Act. Proceeding so initiated against the appellant were without conducting inquiry under section 38 of the Act.</p> <p>The Hon'ble Tribunal held that in case of fraud or evasion of tax, commissioner was required to authorize Inland Revenue Officer not below the rank of Assistant Commissioner to conduct inquiry or investigation under section 38 of the Act. The Action taken above was illegal, the orders of authorities below were vacated.</p>
2015 PTD (Trib.) 1174	Ss. 3, 7, 8, 11 of the Sales Tax Act, 1990	<p>In this case, the case of appellant was selected for post refund audit and it was alleged that appellant had received refund on invoices issued by blacklisted units.</p> <p>The Tribunal relying on the principles laid down by the superior courts accepted the appeal.</p>
2015 PTD (Trib.) 1186	Ss. 11, 33, 34, 46 & 73 of the Sales Tax Act, 1990	<p>In this case, adjudicating authority had alleged that appellant had claimed illegal input tax adjustment against fake invoices.</p> <p>The Tribunal decided the matter in favor of appellant since submission of appellant were duly supported by the documentary evidence.</p>
2015 PTD 1236 (H.C. Lah.)	S. 196 of the Customs Act, 1969	In this case, the petitioner is an importer of computers and is availing benefit of exemption from payment of advance income tax at import stage which was inadmissible to him under SRO 593(I)/91.

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		The Hon'ble High Court upheld the order passed by Customs Appellate Authority which held that exemption certificate was provided under the impression that importer is not engaged in manufacturing process, hence not fulfilling the condition of exemption certificate.
2015 PTD 1276 (H.C. Sindh)	Ss. 33, 194-A & 196 of the Customs Act, 1969	<p>The reference application had been filed by the Department against the order issued by the Customs Appellate Tribunal. The registered person had imported goods which were assessed under H.S. Codes 3920-2020 &amp; 3920-2040 which were chargeable to customs duty at the rate of 25%.</p> <p>Later on, the registered person had filed refund application on the ground that the goods were rightly classified under HS code 3910-2030 which were chargeable to customs duty at the rate of 20%.</p> <p>It was held that the appeals decided in favor of registered persons at below appellate forums were legal. Reference application was, therefore, dismissed.</p>
2015 PTD (Trib.) 1351	Ss. 2, 15, 16, 156, 168 & 194-A of the Customs Act, 1969	In this case, the petitioner was found guilty of smuggled goods confiscated by the Customs Authority. The petitioner contended that the goods be released against fine. The Hon'ble Tribunal, however, upheld the order of CIRA.
2015 PTD (Trib.) 1363	<p>Ss. 4, 11, 23, 33, 34, 46 &amp; 73 of the Sales Tax Act, 1990</p> <p>SRO 283(I)/2011 and SRO 1125(I)/2011</p>	<p>In this case, appellant being a supplier of yarn declared zero rated supplies made to a registered persons and received all payments of transaction through Bank by buyer.</p> <p>The adjudicating authority initiated on the contention that appellant had made supplies to unregistered person to avoid 6% sales tax under SRO 283(I)/2011 and SRO 1125(I)/2011.</p> <p>The Tribunal decided the matter in favor of appellant since the appellant meets all three pre requisite for availing benefit of zero rating under said notification. The orders of authority below were declared illegal, void and set aside.</p>
2015 PTD (Trib.) 1370	Ss. 3, 7, 16 & 36 of the Federal Excise Act, 2005	<p>In this case, the tax authorities has levied duty on 'interconnect services' on services provided by telecom operators to each other.</p> <p>It was contended that interconnect charges are taxed as part of "Cellular Telephone" and not independently.</p> <p>The Tribunal followed the ratio decidendi of the judgment of Hon'ble Islamabad High Court which has been decided in the favor of registered person.</p>



CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD (Trib) 1400	S. 194 –A of the Customs Act, 1969	<p>In this case, it was held that the Board or Collector of Customs is empowered to file an appeal against an order passed by the Collector (Appeal) but such appeal shall be preferred by an officer of Customs not below the rank of Assistant Collector so authorized in writing.</p> <p>The instant appeal, being filed by the Assistant collector on his own without any valid authorization of the Collector of Customs, was rejected.</p>
2015 PTD 1428 (H.C. Sindh)	<p>S. 196 of the Customs Act, 1969</p> <p>SRO 509(I)/2007</p> <p>SRO 471(I)/2009</p>	<p>In this case, 'Tyre CORD Fabric' was imported and sales tax was exempted by giving benefit of "zero rating" in terms of notification SRO 509(I)/2007. The authorities issued show-cause notice to importer on the ground that it was not entitled to exemption of "zero rating" at the relevant time i.e. upto 13-6-2009 before amendment in notification SRO 471(I)/2009.</p> <p>Finding as recorded by Customs Appellate Tribunal in such regard was erroneous and contrary to material available on record and also based on incorrect interpretation of law and the relevant SRO on the subject. HC answered question in negative in favour of importers and against authorities.</p>
2015 PTD (Trib) 1451	<p>Ss. 32, 32-A, 79, 80, 156, 181 &amp; 194-A of the Customs Act, 1969</p> <p>SRO 283(I)/2011 638(I)/2005 499(I)/2009</p>	<p>In this case, the appellant (Importer) of goods filed goods declaration and determined his tax liability on his own and got clearance thereof. Goods declaration was selected for scrutiny and importer was charged for having misdeclared classification of goods.</p> <p>Importer was given option to redeem goods on payment of fine along with duty, taxes and penalty. Show cause notice was disposed of in said terms.</p> <p>Data made available and evidence placed on record, confirmed that the identical goods had been cleared consistently under the said PCT heading, without any contest or dispute, merely claiming the benefit of particular PCT heading would not amount to mis-declaration, incorrect interpretation of notification was not misstatement.</p> <p>No legal infirmity was found in the order passed by Appellate Authority. Ends of justice would be met by maintaining said order. Appeal filed by the department, being without substance, was dismissed, in circumstances.</p>
2015 PTD (Trib) 1469	<p>Ss. 2(s), 9, 10, 16, 32, 32-A, 79, 80, 156, 168, 171, 177, 179(3), 194-A of the Customs Act, 1969</p> <p>SRO 486(I)/2007 Notification No. 188(I)/83 dated 12-12-1988</p>	<p>In this case, Appellant/Importer as found involved in importing and clearing the consignment of miscellaneous items in excess through mis-declaration. The consignment was examined by Directorate General of Investigation and Intelligence-FBR.</p> <p>Collector of Customs/Adjudicating Authority, issued show cause notice and thereafter vide order-in-original.</p> <p>Impugned order so passed was barred by limitation, such order which was without powers/jurisdiction, could not be enforced under the law. Order-in-original was held to be null and void, and was set aside. Appeal of importer was allowed as prayed for.</p>



CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD (Trib) 1490	Ss. 2(37), 2(9), 2(14)(a), 3(1)(a) & (b), 6(1) & (2), 7(1), 2(i)(ii), 8(1)(a), 8A, 21, 22(1), 23(1), 25, 26(1) and 73 of the Sales Tax Act, 1990	<p>In this case, the appellant is a Private Limited Company and engaged in the business of packaging business. The DCIR issued show-cause notice to the appellant, wherein it was alleged that the appellant had illegally claimed/adjusted inadmissible input tax against the blocked/blacklisted suppliers, therefore claimed principal amount of sales tax along with default surcharge and penalty.</p> <p>The appellant filed appeal before the CIRA, Karachi. In view of the facts and circumstances order-in-original is illegal and void an initio. The impugned order of the learned Commissioner (Appeals) was vacated and the order passed by the DCIR was annulled.</p>
2015 PTD 1520 (H.C. Lah.)	S. 40 of the Sales Tax Act, 1990	<p>In this case, the petitioner impugned warrant for the search of its premises as well as the subsequent confiscation of material from its premises on the ground that such search and seizure was conducted without a proper warrant and the requirements of the section.</p> <p>The search warrant was set aside and the department was directed to return all records, documents and computers to the petitioner.</p>
2015 PTD 1532 (H.C. Sindh)	Ss. 3, 42 & 54 of Sales Tax Act, 1990 SRO 551(I)/2008	<p>In this case, plaintiffs were pharmaceutical companies and claimed that intravenous infusion manufactured with low density polyethylene of pharmaceutical grade was a pharmaceutical product for the purposes of sales tax exemption.</p> <p>The High Court decided the issue in favour of plaintiffs. Suit was decreed in circumstances.</p>
2015 PTD (Trib.) 1543	Ss. 33, 36 & 46 of the Sales Tax Act, 1990	<p>In this case, the Assessee, alleged to have made short payment of Central Excise duty and Sales Tax, was served with a show cause notice, but the order was passed after 390 days of the issuance of the notice and not sought extension of the said period from the Competent Authority.</p> <p>Appellant Authority was not justified to reject the appeal of assessee, both order-in-original and order-in-appeal, were set aside, in circumstances.</p>
2015 PTD (Trib.) 1549	Ss. 32(2), 156(1)(10- A)(14), 193 & 194-A of the Customs Act, 1969	<p>In this case, the appellant allegedly evaded considerable amount of customs duty and taxes, chargeable on the reimport of their aircraft engines after being repaired abroad. Appeal filed by the appellant against order-in-general was dismissed by the Customs Tribunal on ground of limitation.</p> <p>Appellant, availing the said benefit of Amnesty Scheme, negotiated with Customs Authorities, and finally settled the dispute and paid the entire outstanding amount of duty and taxes. Impugned order, was set aside, in circumstances.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 1555 (H.C. Sindh)	Ss. 32 & 33 of Federal Excise Act, 2005	<p>In this case, the petitioner had availed remedy provided under the Federal Excise Act, 2005 by filling an appeal before the Commissioner (Appeals) where after an order had been passed on merits; and if the petitioner felt aggrieved of the said order, he should have availed remedy provided under S34 of the Federal Excise Act, 2005 by filling an appeal before the Appellate Tribunal-High court under act.</p> <p>High Court observed that the present petition was not maintainable, however, the petitioner was at liberty to approach the relevant forum as provided under the Federal Excise Act, 2005. Constitutional petition was dismissed, in circumstances.</p>
2015 PTD (Trib.) 1563	Ss. 25, 32, 32-A, 79, 80, 156(1)(14) (14-A)(45) & 194-A of Custom Act, 1969  SRO 499(I)/2009	<p>In this case, the importer filed Goods Declaration for the imported goods, upon scrutiny it was revealed that the importer had declared the Unit of Measurement (UOM) as roll, instead of Kg.</p> <p>Offending goods were confiscated, with option to the importer to redeem goods within 15 days on payment of penalty.</p> <p>Wisdom behind the said SRO was evaluated. No evidence about the element of mens-rea as well as collusion was found in the present case. Impugned order was modified and was ordered that the importer is only liable to pay adjudicated amount of additional duty and taxes accordingly.</p>
2015 PTD 1580 (H.C. Sindh)	Ss. 25, 25-A, 25-D & 194-A of the Customs Act, 1969	<p>Plea raised by authorities was that importers had also availed alternate remedy, therefore petition was not maintainable.</p> <p>Where any party resorted to statutory remedy against order, then the same could not be abandoned or bypassed, without any reasonable cause by filling constitutional petition, challenging same action.</p> <p>Petition filed by importers was misconceived and not maintainable in law as alternate and efficacious remedy was available to importers which had already been availed by them.</p> <p>Importers concealed material facts from High Court and had further availed departmental remedy by filing appeals before Customs Appellate tribunal without leave of the HC. Petition was dismissed in circumstances.</p>
2015 PTD (Trib.) 1600	Ss. 32(1)(c), (2)(3-A), 156(1)(14) & 194-A of the Customs Act, 1969	<p>In this case, the importer had got various consignments of components/parts and finished articles on concessionary rate of income tax, the inadmissible concession resulted in the short payment of Income Tax.</p> <p>Demand of the allegedly short paid tax was raised. Section 32 of the Customs Act, 1969 was not validly applicable to the case, recovery of unpaid advance tax, could only be demanded and effected by the Officer of Income Tax (Inland Revenue) of competent jurisdiction. Demand</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		raised through the impugned order showing non-interest and non-discharge of power mechanical approach of the department on the issue, both on legal and factual grounds, impugned order-in-original was set aside.
2015 PTD (Trib.) 1643	Ss. 2(37), 21(2), 33(4) & 73 of the Sales Tax Rules, 2006 SRO 555(I)/2006	<p>In this case, Appellant/registered person, was blacklisted on allegation that it had violated provisions of &amp;.73 of the Sales Tax Act, 1990 by not declaring its business bank accounts to the department.</p> <p>Whole proceedings carried out under General Order, being not in accordance with the provisions of section 21(2) of the Sales Tax Act, 1990 were declared to be illegal and without jurisdiction having no legal effect at all. Non declaration of bank accounts by a registered person to the Commissioner concerned could not be termed as "tax fraud".</p> <p>Impugned order, was set aside with direction to restore status of appellant from the date of his registration immediately, in circumstances.</p>
(2015) 112 TAX 84 (S.C. Pak)	Ss. 25 & 25A of the Customs Act, 1969  SRO 356 (KE) dated 25-10- 1991	<p>The price of sugar imported from Thailand was fixed vide SRO 356 (KE) dated 25-10-1991. The appellant contended that duty should be fixed according to bill of entry declaring value of consignment at contract price. The Hon'ble Supreme Court declared the SRO 356 (KE) dated 25-10-1991 invalid and was struck down. The case was remanded back to dealing department for fixation of price afresh.</p>
2015 PTD (Trib.) 1720	Ss. 11, 25, 36 & 46 of the Sales Tax Act, 1990	<p>In this case, registered person was ordered to pay amount on account of suppression of sales tax and inadmissible input tax while disregarding the fact that its income was not chargeable to tax except the defined extent.</p> <p>The CIRA annulled the order based on legal grounds against which Department has filed the appeal. The Hon'ble Tribunal also upheld and maintained the order passed by the CIRA.</p>
2015 PTD 1733 (H.C. Pesh.)	Ss. 2, 15, 16, 156(1)(90), 181, 187, 196 & 244 of the Customs Act, 1969	<p>Through this judgment, it was emphasized that initial onus to prove the valid importation and payment of duties and taxes and even its lawful possession was upon the person in possession of questionable goods and if the person fails to do so, the same would fall under the definition of 'smuggled goods'.</p>
2015 PTD (Trib.) 1752	Ss. 25, 25A, 32 & 194-A of the Customs Act, 1969	<p>In this case, it was held that value of goods imported assessed on the basis of ninety (90) days prior to the import or within ninety days after import have validity.</p>
2015 PTD (Trib.) 1777	Ss. 3, 11, 25, 46 & S. 72-B of the Sales Tax Act, 1990	<p>In this case, notice under section 11 was issued without indicating sub-section. It was held that the notice, prima facie, was defective and the error was not curable. Proceedings initiated on the basis of the impugned show-cause notice being illegal ab initio, were set aside.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		<p>Secondly, the appellant was selected for audit of tax affairs by the Authority itself without any prior selection from the FBR. Since section 72B of the Act clearly states that FBR has the authority to select a registered person for the purpose of an audit. It was held that where the basic statutory notice was illegal and without any authority the whole superstructure built on the same shall become illegal, unlawful and without any jurisdiction.</p> <p>Further, impugned Order-in-Original was issued mainly on the grounds that supplier of the appellant was blacklisted. In this regard it was held that the supplier was active when the transaction took place and was declared blacklisted subsequently. Reliance was placed on well-settled principle of law that executive orders and notifications which confer rights and are beneficial, would be applied retrospectively and the ones having adverse impacts would be applied prospectively.</p>
2015 PTD (Trib.) 1805	Ss. 7(1), 8(1)(b), 11, 33, 34, 46 & 73 of the Sales Tax Act, 1990	<p>Department disallowed input tax and found recoverable from the registered person on the grounds that the creditors &amp; debtors of the company as per the audited accounts were increasing, and it could be inferred from the trend that payment have not been made for the purchases on the basis of which input tax is being claimed.</p> <p>Appellate Authority deleted the liability created as the basis that the creditors &amp; debtors have increased is not a lawful ground for disallowance of input tax.</p> <p>Assessing Authorities issued an order to the tax payer for payment of sales tax and default surcharge on the grounds that the accounts of the registered person showed closing stock whereas physical inspection of the business premises disclosed that there were no stock at all. However, Assessing Authority did not produce any evidence of their claim and it did not comply with the provisions of s. 38 and s. 40 of the STA, 1990 in doing so.</p> <p>Appellate Authority declared that the department acted beyond its jurisdiction and hence its order was cancelled.</p>
2015 PTD (Trib.) 1817	Ss. 25, 81 & 194-A of the Customs Act, 1969	<p>Importer got the goods cleared against undertaking that matter would be referred to the Classification Centre for determination of classification of goods and that the importer would pay the additional taxes, custom duty if required as a consequence of classification of goods.</p> <p>Subsequently, P.C.T Committee, ruled vide public notice that the goods in the case were properly classified. After one and a half year of such confirmation, importer was asked to pay a differential amount.</p> <p>It was held that now the importer is not bound to pay any differential amount as the assessment of provisional determination was required to be finalized within six months of the issuance of the same. On expiry of the said time the provisional order became the final order, hence, cannot be changed.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD (Trib.) 1839	Ss. 11(2)(3) & 46 of the Sales Tax Act, 1990	<p>A notice was issued to the registered person under S. 11(2) of STA, 1990 which was illegal and void ab initio as recovery of erroneously refunded sales tax can be made under s. 11(3) of STA, 1990. Therefore, the notice, prima facie, was defective and the error was not curable.</p> <p>Impugned show cause notice passed by the authorities were vacated by Tribunal being devoid of legal substance.</p> <p>It was further held that Clarifications, circulars, instructions, directions, orders and guidelines of the board, are the highest administrative authority in the tax administration of the Federation, and are binding on all its subordinate authorities.</p> <p>It was further held that A second show cause notice cannot be issued to the same person, for the same charges against invoices of the same supplier involving same amount of tax concerning the same offence is not only illegal, unlawful and devoid of any merits but would also amount to double jeopardy in defiance of principles of natural justice.</p>
2015 PTD (Trib.) 1869	Ss. 19, 25, 32, 80, 83, 156, 168, 179, 181, 194-A & 195 of the Customs Act, 1969	<p>The appeal filed by the Customs Authority was quashed on following legal grounds:</p> <ul style="list-style-type: none"> <li>- Affidavit in support of filing of appeal was executed by the Deputy Collector, who had no power under the law; and</li> <li>- Assessment finalized was not challenged before any competent authority within prescribed time of 30 days.</li> </ul>
2015 PTD 1882 (S.C. Pak)	S. 79(1), proviso & S. 205 of the Customs Act, 1969	<p>In this case, importer had bill of entry along with a request of to carry out 100% examination of the consignment for determination of correct description and value of the goods. Meanwhile supplier abroad informed the importer that the clearing invoice was erroneous. Importer immediately applied to the customs authorities seeking amendment in the bill of entry. The request was declined by the authorities.</p> <p>The issue was decided in the favor of importer by Sindh High Court and the Hon'ble Supreme Court of Pakistan.</p>
2015 PTD (Trib.) 1886	Ss. 32, 32(3) & 156(1)(14) of the Customs Act, 1969	<p>In this case, show cause notice was issued u/s 32 to the importer alleging that Goods declaration so filed and the value of optional accessories were not assessed at the time of manufacturing. No charge existed to the effect that his declaration in respect of nature, description and origin of vehicle was found to be wrong.</p> <p>It was held that he abovementioned charge was not sufficient to bring a conduct in the folds of s. 32 and the show-cause notice was held void ab initio.</p> <p>It was further held that an agent representing his principal cannot be declared as liable for loss unless by direct evidence it could be shown that he was committing some activity by which State suffered loss in public finance.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
(2015) 112 TAX 84 (S.C.Pak)	Ss. 25 & 25B of the Customs Act, 1969  SRO 356 (KE) dated 25-10-1991	The price of sugar imported from Thailand was fixed vide SRO 356 (KE) dated 25-10-1991. The appellant contended that duty should be fixed according to bill of entry declaring value of consignment at contract price.  The Hon'ble Supreme Court declared the SRO 356 (KE) dated 25-10-1991 invalid and was struck down. The case was remanded back to dealing department for fixation of price afresh.
(2015) 112 TAX 270 (H.C. Lah.)	S.11(2) of the Sales Tax Act, 1990	In this case, it was held that stay against recovery of tax is not a matter of right of taxpayer but is subject to discretion of Appellate Tribunal that has to hear taxpayer and decide upon question of hardship.
2015 PTD 2202 (H.C. Lah.)	Ss. 32, 16 & 196 of the Customs Act, 1969	The reference application was filed by the importer of sugar. A show cause notice was issued on the grounds that the importer in collusion with the clearing agent assessed the value of goods less than that was required to be fixed as per SRO 563(1)/2006. The issue was assailed by the importer at all appellate forums which were decided in the favor of Department.  The Hon'ble High Court also upheld the order of Tribunal.
2015 PTD 2256 (H.C. Lah.)	Ss. 8A, 8, 7, 3(3), 11 & 21 of the Sales Tax Act, 1990	The issue again relates to disallowance of input tax credit on the grounds that the supplier have become backlisted subsequently. The matter was resolved in favor of taxpayer.
2015 PTD 2287 (H.C. Sindh)	S. 47 of the Sales Tax Act, 1990  S. 133 of the Income Tax Ordinance, 2001  S. 196 of the Customs Act, 1969	Authorities were aggrieved of findings of Appellate Tribunal and raised new pleas which were not raised previously before the forum.  It was held that questions which were neither raised nor there had been any finding recorded by the Appellate Tribunal, such questions cannot be raised before High Court for the first time.
2015 PTD 2304 (H.C. Islamabad)	Ss. 2(26)(42) & 7(2)(iv) of the Sales Tax Act, 1990	Grievance of the Appellant was that the exemptions granted by law could not be withdrawn by executive notifications provided that the exemptions are availed in the specified period and after fulfilling the specified conditions.  Reliance was placed on various case laws on the subject whereby it has been held that when exemption from some tax has matured in vested right, it cannot be subsequently withdrawn through notification but only through the legislation.



CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD (Trib.) 2360	Ss. 13(1)(c), 26, 32, 156(1)(15), 194-a 7 223 of the Customs Act, 1969	<p>Show cause notice was issued to the exporter stating that the net weight of the exported goods (gloves made of PVC) was mentioned as 5 to 6 grams per pair in the duty drawback claim which was not in conformity with the normal practice.</p> <p>The exporter contended that admissibility of duty drawback was on 'per pair' basis and not on 'per weight' basis and the whole exercise of impugned order was flawed and not based on legal footings. The exporter had provided documentary evidence in support of his contentions.</p> <p>It was held that allegations levelled in the show cause notice were inappropriate and were not maintainable. Orders of authorities were set aside and the show cause notice was vacated.</p>
2015 PTD (Trib.) 2409	Ss. 2(s), 16, 26, 32 156, 162, 163, 168, 171, 177 & 194-A of the Customs Act, 1969	<p>Vehicle of the importer was intercepted on charge of smuggling as seized on order of adjudicating authority. No notice was given by the authority to the appellant and no specific charge regarding illegality of importation of vehicle as disclosed. Appellant provide records suggesting that the vehicle was purchased from open market in a legal ay and it was duty paid.</p> <p>It was held that all allegations raised by the department were afterthoughts and the impugned order was declared void, ultra-vires, ab initio illegal and was set aside.</p>
2015 PTD 2432 (H.C. Sindh)	<p>Ss. 156(1) of the Customs Act, 1969</p> <p>Rule 95(2) &amp; 103(2) of the Customs Rules, 2001</p>	<p>In this case, it was held that licensing authorities do not enjoy any powers to revoke licenses, either conditionally or by imposing a specific penalty without making any reference to violation of any specific rule or provision of the customs Act, 1969. The authorities utmost can, by an order in writing, suspend or revoke the license of the licensee for alleged violation of R. 103 of the Customs Rules, 2001 after issuing a show-cause notice and affording to provide the opportunity of being heard to the licensee. In addition to this licensing authority could order for forfeiture of security deposited by licensee.</p> <p>No action can be taken against a licensee in respect of an offence alleged to have been committed by him under the Customs Act, 1969 unless he was convicted by a court of law.</p>
2015 PTD 2447 (H.C. Sindh)	Ss. 18(3) & 18(5) of the Customs Act, 1969	<p>In this case, petitioners (importers of Cellular Mobile Phones and various iron and steel products) impugned SRO No.18(1) of 2015, whereby a regulatory duty has been imposed on importers of cellular mobile Phones and various iron and steel products, on the contention that proviso to s. 18(5) of the Customs Act, 1969 stipulated that the total cumulative incidence of customs duties leviable u/s 18(1),(3) &amp; (5) could not exceed the duty which has been agreed between government of Pakistan and government of China under multilateral agreement; that the Free Trade Agreement in question was an offshoot of the General Agreements on Trade and Tariffs ("GATT") which was a multilateral trade agreement and Pakistan and china were both signatories thereto.</p>



CITATION	SECTION(S)	ISSUE(S) INVOLVED
		<p>It was held that the said proviso provides protection to multilateral agreements only. Bilateral agreements or even the bilateral agreements in pursuance of a multilateral agreements are not protected under the proviso. The said Free Trade Agreement in question is therefore not protected under the proviso.</p> <p>Imposition of the regulatory duty in the present was held to be legal and the petition was dismissed.</p>
2015 PTD (Trib.) 2460	Ss. 25, 81, 82 & 194-A of the Customs Act, 1969	<p>Importer filed Goods Declaration of which description was confirmed by the department but the value was found on lower side than the normal. The goods were released provisionally. Importer was found to have short paid the taxes and the department ordered the importer to pay off the balance taxes.</p> <p>The importer contended that value of the taxes was enhanced arbitrarily without giving evidence for such enhancement.</p> <p>It was held that mere posting of certain advice electronically on the system by the Valuation Officer would not meet the requirement of Final Determination of taxes. Such power was only to be exercised by the appropriate officer in the prescribed manner and within the stipulated time of six months. Final determination, in the circumstances, was time barred and the order passed by the authorities was patently infested with legal infirmities and had no legal warrant under the law which was set aside.</p>
(2015) 112 TAX 295 (H.C. Lah.)	Ss. 3, 6, 11, 26(1), 33 & 34 of the Sales Tax Act, 1990	<p>The reference application was filed by the department against the impugned order of ATIR.</p> <p>The registered person deals in zero rated supplies and had not filed monthly sales tax returns. The department had, therefore, imposed penalty on the registered person for non-filing of sales tax returns. The ATIR, however, held that since no loss of revenue was caused, therefore, registered person may be treated as non-filer because of zero rated supplies.</p> <p>The Hon'ble LHC decided the matter in favor of department and held that it is mandatory for registered person to file monthly sale tax return even in case of zero rated supply.</p>
(2015) 112 TAX 318 (H.C. Lah.)	<p>Ss. 2(3), 2(25), 3, 7, 7A, 7A(1), 8(g), 14 &amp; 71 of the Sales Tax Act, 1990</p> <p>Rule 58, 58-B of the Sales Tax Special</p>	<p>In this case, petitioner imported goods for self-consumption. The authorities alleged to pay value addition tax at the rate of 10%.</p> <p>It was contended that the spirit underlying the value addition tax is found on the value addition of the goods imported by an importer for subsequent supply.</p> <p>The petition was allowed and it was held that the petitioner was not required to pay value addition tax. The notices so issued for payment of value addition tax were held illegal.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
	Procedure Rules, 2007  S.R.O 678(I)/2007	
(2015) 112 TAX 385 (H.C. Lah.)	Ss. 3(1A), 3B of the Sales Tax Act, 1990	<p>In this case, the petitioner had received refund on account of further tax which was declared illegal by the Hon'ble Supreme Court in 1998-99.</p> <p>The petitioner was issued show cause notice in 2012 claiming that earlier refund was erroneously made.</p> <p>The petition was allowed and show-cause notice was held illegal.</p>
(2015) 112 TAX 139 (Trib.)	S. 11(2) of the Sales Tax Act, 1990  Sales Tax Special Procedures (Withholding) Rules, 2007	<p>In this case, non-deduction of sales tax and payment thereof was ordered to be recovered under section 11(2).</p> <p>It was held that section 11(2) does not deal with default of withholding tax.</p>
2015 PTD (Trib.) 2474	Ss. 32, 156(1)(14), 194-A, 202 & 209 of the Customs Act, 1969	<p>In this case, Clearing Agent was held liable for facilitating the importer in importing alleged illegal designs as the importer sold the raw material in open market rather than using it in manufacturing.</p> <p>It was held that sole function of clearing agent is to prepare Goods Declaration on the basis of import documents and the he is not responsible for the subsequent use of the imported goods. Impugned order to the extent of imposition of penalty was set aside.</p>
2015 PTD (Trib.) 2545	Ss. 2(14), 7, 8, 11(2), 33, 34, 36, 45-B & 46 of the Sales Tax Act, 1990	<p>In this case, appeal against order for recovery of an amount erroneously refunded to the taxpayer was filed after 8 months instead of 30 days as prescribed under the law.</p> <p>The Appellate Authority maintained the order passed by the assessing officer being appeal was found time barred.</p>
2015 PTD 2552 (H.C. Sindh)	S.5 of the Sales Tax Act, 1990	<p>In this case, petition was filed seeking relief with regard to enforcement of contractual obligations between the parties which could not be enforced or granted while exercising discretionary jurisdiction of High Court under Art. 199 f the Constitution.</p> <p>It was further held that appropriate remedies in such matter be sought through a suit before Civil Court of competent jurisdiction.</p>
2015 PTD (Trib.) 2584	Ss. 32(1), 32(2) & 179 of the Customs Act, 1969	<p>In this case, show cause notice was issued by officer of Customs for allegation of misdeclaration in description of goods imported.</p> <p>It was held that cases involving technical violation of import or export restriction without involvement of evasion of any duties or taxes, would not be adjudicated by adjudicating authorities of Customs.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 2596 (S.C.Pak.)	S. 18 of the Customs Act, 1969	<p>In this case, the petitioner is engaged in the manufacture and assembly of motorcycles. The controversy in the matter is, as to whether the parts or components imported by the petitioner for manufacturing and assembling motorcycles are amenable to customs duty at the rate of 25% ad-volera under PTC 87.14.</p> <p>It was contended that customs duty on such parts is 90% as prescribed in PTC 87.11, but at the same time, 30% exemption on such duty has also been provided vide SRO 436(1)/2001 dated June 18, 2001</p> <p>In order to avail the 30% exemption, a recognized assembler had to obtain an approved delegation programme from the Engineering Development Board (EDB). Moreover, other conditions mentioned in the said SRO had to be satisfied.</p> <p>The Hon'ble Supreme Court held that the concession under the said SRO shall only be available to the manufacturer in question if it fully adhered to the terms and conditions therein and remanded the case back to the assessing officer to decide the same accordingly.</p>
2015 PTD 2600 (H.C. Sindh)	S. 196 of the Customs Act. 1969	<p>In this case, the decision on questions of law raised before the Hon'ble High Court were found subject to concurrent findings on facts.</p> <p>It was held that only substantial questions of law arising out of order of Tribunal could be referred for opinion of High Court, whereas questions of disputed facts cannot be examined under its reference jurisdiction.</p>
2015 PTD (Trib.) 2606	Ss. 7(2), 8(1)(a), 66 & 74 of the Sales Tax Act, 1990	<p>In this case, the appellant (registered person) is engaged in supply of goods alongwith services. The department had ordered to recover sales tax on services component as well.</p> <p>In this regard, it was held that services provided by the appellant constitute integral part of taxable supplies as supply is incomplete without such services component. The issue, was thus, decided in favor of Department.</p> <p>Further, the issue as regards to non-payment of Special Excise Duty was decided in favor of registered person while relying on the judgment of Hon'ble Sindh High Court (M/s Sakrand Sugar Mills Limited) whereby the provisions of S 3A were declared void ab initio.</p>
(2015) 112 TAX 420 (H.C. Pesh.)	Ss. 15, 16, 156(1)(8)(89), 181, Proviso (2) to S. 181 & 185A  Article 189- SRO 1374(i) of 1998  SRO 225(i) of 2007  SRO 459(i) of 2009	<p>In this case, in adjudication proceedings, appeal was accepted with directions to respondents to receive Customs duty and reasonable penalty from petitioner in accordance with law and return gold to him after such payment.</p> <p>Department impugned decision of HC before Apex Court wherein both parties made joint statements and case remitted back/remanded to adjudicating officer/Collector, Peshawar directing him to decide case afresh in accordance with law laid down by Supreme Court.</p> <p>The Customs reference is answered in positive and the case is remanded back to the Adjudicating Collector.</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
(2015) 112 TAX 432 (H.C.Lah)	Ss. 11(2), 11(4), 33, 45(1)& 45B of the Sales Tax Act, 1990	<p>In this case, the Petitioner contends that impugned Show Cause Notice has been issued and served upon petitioner beyond period of 5 years and that recovery of tax cannot be made after expiry of statutory period of limitation.</p> <p>It was held that section 11(4) provides period of limitation of 5 years for issuance of show cause notice. The notice having been issued after one year of expiry of relevant date is barred by limitation and thus is without lawful authority.</p>
(2015) 112 TAX 438 (H.C. Pesh.)	Ss. 32(1), (2), (3), (3A), 32, 156(14), 179, 193, 193(5), 194-A (4)(5), 194-B (2)(3), 195 of the Customs Act 1969 Rule 90(1) of Customs Rules, 2001	<p>In this case, Collector of Customs invoked his power u/s 195 while appeal of the petitioner was pending before Collector (Appeals).</p> <p>The action taken by the Collector of Customs was held illegal.</p>
(2015) 112 TAX 464 (H.C.Lah)	Ss. 11(2) & 36(1) Sales Tax Refund Rules, 2002	<p>In this case, a Show Cause Notice issued to petitioner after two years calling upon it to show as to why sales tax refunded may not be recovered back in addition to tax and penalty allegedly issued on the basis of fake invoices.</p> <p>It was held that the order-in-original being hit by time limitation is illegal.</p>
(2015) 112 TAX 472 (H.C. Lah.)	Ss. 24, 24(2), 25, 25(2), 26, 27, 33 & 56 of the Sales Tax Act, 1990	<p>In this case, the petitioner's business premises were sealed without giving prior show cause notice by the authorities.</p> <p>The Petitioner contended that sealing the business premises without giving a show-cause notice and without giving opportunity of being heard is void, illegal and without jurisdiction.</p> <p>The Hon'ble High Court allowed the petition and directed the authority to get the petitioner registered and after conducting audit of the petitioner's business issue a show-cause notice and provide opportunity of hearing where after liability of petitioner, if any, may be fixed and recovered according to the provisions of the Act.</p>
2015 PTD 1428	SRO 509(I)/2007	<p>In this case the Taxpayer imported various consignments of Tyrecord fabric and filed goods declaration by claiming assessment under PTC Heading 5902.1000 and also claimed exemption/ Zero Rating of Sales Tax under SRO 509(I)/2007 dated 9.6.2007 on which basis consignments were cleared without any objection. Subsequently Custom Department issued show cause notices in which it was alleged that the applicant was not entitled to exemption/zero rating of sales tax in terms</p>

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		of above SRO. The Hon'ble High Court of Sindh after examining the SRO held that the disputed goods were entitled to exemption/zero rating of sales tax as the goods were fully covered by description in the said SRO. Relief was granted accordingly.
2015 PTD 1749 (H.C. Sindh)	S. 202 of the Customs Act, 1969  Chapter IX of the Customs Rules 2001	<p>In this case the petition was filed by a clearing agent against blocking of I.D of the petitioner by the Assistant Collector Customs on the pretext that since certain importers who were being represented by the petitioner have defaulted in payment of duty and taxes. It was contended before the Hon'ble High Court that action has been taken without issuance of any show cause notice and opportunity of being heard. It was also contended that there is no legal provision in the Customs Act, 1969 or Rules and Regulations made thereunder relating to the license of clearing agent whereby in case of any default in payment of duty and taxes by an importer, the ID of clearing agent could be blocked or suspended and that provisions of section 202 of the Customs Act and Chapter IX of the Customs Rules, 2001 have to be adopted which is also inconsonance with FBR's letter to the Collectorate.</p> <p>On the other hand the respondent argued that in terms of Rule 102 license can be suspended without show cause notice, however, it was stated that the procedure to be adopted while initiating proceedings against the defaulting license holders, appears to have not been adopted by the respondent in the instant case. It was being contended by the learned counsel for the respondent that the instant petition may be disposed off with the directions to the respondents to confront the petitioner with the violations, if any, committed by the petitioner either to the provisions of the Customs Act, 1969 or to the Rules and the terms and conditions of the licence, where after, appropriate action may be taken against the petitioner, after providing opportunity of being heard. Learned counsel for the petitioner did not oppose the disposal of the instant petition in the aforesaid terms, however, submitted that the impugned letter may be set-aside, whereas, the respondents may be directed to de-block the user I.D. of the petitioner, whereas, licence of the petitioner may be restored.</p> <p>In view of the above, the impugned order/letter in respect of the petitioner was set-aside with the directions to the respondents to de-block the user I.D. and restore the license of the petitioner. It was further observed that the respondents shall be at liberty to take appropriate action against the petitioner in case of any default or violation of Customs Act, Rules or terms and conditions of the licence strictly in accordance with law, after providing an opportunity of being heard to the petitioner.</p>
(2015) PTD 2510. (H.C. Sindh)	S. 196 of the Customs Act 1969 S. 133 of the Income Tax Ordinance, 2001 S. 47 of the Sales Tax Act, 1990 and S. 34A of the Federal Excise Act, 2005	In this case were while examining the provision of section 196 of the Customs Act 1969, Section 133 of the Income Tax Ordinance, 2001, Section 47 of the Sales Tax Act, 1990 and Section 34A of the Federal Excise Act it has been held that if the decision of the appellate Tribunal is based on some perverse and totally incorrect finding of fact, which is contrary to the material available on record or which is based on surmises or conjunctures, the decision based on such erroneous finding of fact can be corrected by the High Court in order to resolve the legal actual controversy which may be involved in the case.

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 1532 (H.C. Sindh)	SRO 551(I)(2008)	<p>In this case a pharmaceutical company filed a suit claiming exemption under SRO 551(I)(2008) dated 11.6.2008 through which the Federal Government had exempted the goods mentioned in column 2 of the Table of the said SRO from the whole Sales tax subject to the conditions and restrictions specified in the said SRO. It was contended that for the notification to be applicable three conditions have to be fulfilled.</p> <ol style="list-style-type: none"> <li>The imported goods were raw materials</li> <li>They had to be raw materials for pharmaceutical active ingredients and for manufacture of pharmaceutical products and</li> <li>The Custom duty on imports could not exceed 10% advalorem.</li> </ol> <p>It was submitted that the goods were low density polyethylene of pharmaceutical grade needed for the manufacture of intra venous (IV) infusions. On the basis of interpretation of expressions and used in the notifications the exemption was available.</p> <p>The Hon'ble High Court after examining the said SRO and the connotation of word "and" held that the plaintiff was entitled to the exemption. The Hon'ble High Court also examined the definition of meaning of expression pharmaceutical products, in the said cause. Secondly, the question of maintainability of suit was also decided in favour of plaintiff.</p>
2015 PTD 1665. (H.C. Lah.)	S. 47 of the Sales Tax Act, 1990	<p>In this case the Hon'ble Lahore High Court has examined the provision of Section 47 of the Sales Tax Act, 1990 which is in respect of reference to the High Court. The Hon'ble High Court has examined the connotation of expression "question of law arising out of such order" used in section 47. The members are requested to read the entire judgment for their benefit.</p>
2015 PTD (Trib) 1777		<p>In this case the input tax was disallowed on the ground that parties with whom the taxpayer had transacted were blacklisted. The learned Appellate Tribunal after examining all the aspects held that department was unjustified to pass such order for the reason that suppliers were blacklisted in 2012 whereas the transaction dates related to years 2010 and 2011 respectively.</p>
2016 PTD 1 (H.C. Sindh)	Ss. 25 & 38 of the Sales Tax Act, 1990	<p>In this case Hon'ble High Court has held that prior to the amendment made in section 25 of the Sales Tax Act, 1990 Superintendent Sales Tax had the authority as the officer concerned to ask for a free access to business or manufacturing premises, Registered office or any other place where any stocks, business record or documents were kept or maintained belonging to any registered person which were required for inquiry or investigation in any tax fraud committed by him or by his agent or any other person and such officer was competent under section 25 read with section 38 of the Sales Tax Act, 1990 to inspect such record and to take such record in his custody. The registered person, his agent or any other person had no liberty or discretion to refuse any question or furnish any information or explanation asked by such officer.</p>



CITATION	SECTION(S)	ISSUE(S) INVOLVED
(2015) 112 TAX 139 (Trib.)	Sales Tax Special Procedure (Withholding) Rules, 2007	In this case the learned Tribunal by majority has held that Sales Tax Special Procedure (Withholding) Rules, 2007 are not applicable to the payments of Federal Excise duty under the Federal Excise Act, 2005.
(2015) 112 TAX 472 (H.C. Lah.)	Ss. 24, 25, 26, 27 of the Punjab Sales Tax on Services Act, 2012	In this case, a constitution petition was filed against the action of departmental authorities of PRA to seal the business premises. The Hon'ble High Court after examining the provisions of Sections 24, 25, 26, 27 of the Punjab Sales Tax on Services Act, 2012 alongwith Punjab Sales Tax Services (Enforcement Rules 2014) has held that it is mandatory for registered person under section 25 to be registered under the Act who provides any taxable services from his office or place of business in Punjab and that no person can be registered compulsorily without being given an advance notice and an opportunity of being heard in accordance with the provision. It was further held that the tax authorities cannot demand amount without issuing show cause notice in terms of relevant law. The action of sealing the premises was held to be illegal.



## SYNOPSIS OF IMPORTANT CASE LAW

### DIRECT TAX

CITATION	SECTION(S)	ISSUE(S) INVOLVED
2015 PTD 1714 (H.C. Lah.)		In this case through a petition, the petitioner challenged a clarification circulated by the FBR whereby the tax rebate/ reduction granted to full time teachers or researchers employed in non-profit educational or research institutions recognized by the Higher Education Commission was withdrawn on the ground that the teachers who are performing any administrative or managerial job such as principal, head master, vice chancellor etc, are not entitled to such reduction/ rebate. The Hon'ble Court held that benefit and concession granted by the Income Tax Department in the shape of rebate has already been acted upon therefore the right accrued in favour of the petitioner by way of the Circular which cannot be taken away or withdrawn. The petition therefore was allowed.
2015 PTD 1771 (H.C. Lah.)	S. 111(1)(b) of the Income Tax Ordinance, 2001	In this case, addition was made by the Assessing Officer in respect of household expenses under section 111(1)(b) relating to tax year 2004 to 2008, while making assessment of tax year 2009. The Hon'ble Lahore High Court has held that the action was beyond the jurisdiction and without definite information. The order of the learned Appellate Tribunal deciding the case in favour of the taxpayer was affirmed.
2015 PTD 1815 (H.C. Lah.)	S. 13(1)(d) of the Income Tax Ordinance, 1979	In this case, addition under section 13(1)(d) of the repealed Ordinance was made on the basis of difference of value of property shown in the wealth tax return and wealth statement and the addition was confirmed by the learned Appellate Tribunal. The Hon'ble High Court agreed with the contention that in the wealth tax return, value of property on valuation date is to be disclosed whereas for the purpose of charging of tax under section 13(1)(aa) of the repealed Ordinance, investment made in purchase of property is relevant. Thus, the Hon'ble High Court decided the issue in favour of the taxpayer.
2015 PTD 1823 (H.C. Lah.)	S. 111(2) of the Income Tax Ordinance, 2001	In this case the Hon'ble Lahore High Court examined section 111(2) as it stood prior to its amendment with reference to the addition of the amount in the person's income in the tax year immediately preceding the financial year in which it was discovered by the Commissioner. The Full Bench of the learned Appellate Tribunal decided in favour of the taxpayer, however, the Hon'ble High Court held that section 111 has three distinct and clearly defined stages. The first stage relates to information; the second is in regards to discovery and the third is the formation of opinion by the Commissioner. Although it is not clearly mentioned that a notice should be served upon the person in terms of section 111, yet this can be culled out from a bare reading of the provisions thereof. Sub-sections (1)(a)(b)(c) relates to the part where information comes to the knowledge of the Commissioner as a first step. This information could relate to either any amount being credited in a person's books of account, a person having made any investment or being the owner of any money or valuable article or a person having incurred

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		any expenditure. Then comes the stage of discovery by the Commissioner relating to the amount referred to in sub-section (1). This discovery can only be made on the basis of tangible evidence and material which comes in the hands of the Commissioner and on the basis of which a notice seeking an explanation from the person shall be issued. The words <i>"the person offers no explanation.... or the explanation offered by the person is not, in the Commissioner's opinion, satisfactory"</i> would show that for an explanation to be offered by the person he must have been issued a show-cause notice by the Commissioner. For, without a show-cause notice, there can be no explanation to be offered by the person. This leads to the conclusion that a show-cause notice is envisaged by section 111. It has been observed that the stage at which the notice is issued is the stage which will be deemed to be within the meaning of the term <i>"discovered by the Commissioner"</i> as used in sub-section (2) of section 111. The said notice must be based on the information and on the belief of the Commissioner that the case is one which falls under any of the heads specified in sub-section (1) of section 111 of the Ordinance. Therefore, the Hon'ble High Court observed that discovery is an intermediate stage between the Commissioner getting the information and forming an opinion.
2015 PTD (Trib.) 1847	S. 161, 205 & 174(3) of the Income Tax Ordinance, 2001	In this case the Taxation Officer issued show cause notice to taxpayer to submit necessary detail/evidence in respect of withholding obligations regarding tax years 2003 to 2006 through show cause notice dated 18.6.2012 which culminated by passing the orders under section 161 read with 205 dated 28.6.2012. The learned Tribunal relying on the judgment of Hon'ble High Court Sindh in the case of HBL Vs. Federation of Pakistan reported as 2013 PTD 1659 has held that in the orders passed by the Taxation Officer not a single word has been written about the adjudication at a belated time and beyond the limitation specified in section 174(3) of the Income Tax Ordinance, 2001. The learned Tribunal also agreed with the contention of learned counsel of the tax payer that no transaction and party has been identified and the conclusion drawn by the Taxation officer lack substance and lawful mandate.
2015 PTD 1913 (H.C. Lah.)	Ss. 170 & 171 of the Income Tax Ordinance, 2001	In this case department filed a reference against the order passed by the learned Appellate Tribunal in respect of issue regarding additional payment for the late refund under section 171 of the Income Tax Ordinance, 2001 in which learned Tribunal concluded that refund becomes due on the date the order under Section 120 is taken to have been issued by the Commissioner. The Hon'ble Lahore High Court has examined the provision of sections 120, 170 and 171 and have concluded that refund could not be treated as due on issuance of order under section 120 by the Commissioner, and the decision of the learned Tribunal has been over ruled.
2016 PTD Trib. 45	S.114(6) of the Income Tax Ordinance, 2001	In this case it has been held that revised return under section 122 cannot be ignored while making amended assessment.
(2016) 113 TAX 18 (H.C. Sindh)	Ss. 177 & 214C of the Income Tax Ordinance, 2001	In this case, while examining the powers of the Commissioner under section 177, the Hon'ble High Court has observed that section 177 and section 214C when read together by no means suggest that the power of the Board to select persons for audit under Section 214C

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		is the only mode of selection of persons for audit. It can be seen that Section 120(1A) begins with non-obstante clause thereby override the provisions of Section 120(1). This means that notwithstanding the fact that a tax return filed under Section 120(1) is taken as an assessment order, the Commissioner has been empowered to conduct audit under Section 120(1A) in case he might deem fit to do so and thereby can amend a tax return. Thus under Section 120(1A), a tax return which is taken to be an assessment order, can be reassessed and amended after conducting audit. Now this object can never be achieved if the Commissioner by his own discretion is unable to select a person for audit and has to necessarily depend only on the selection made by the Board of Revenue under section 214C. It has been further observed that, Section 120(1A) does not in any way suggest that the power of Commissioner to conduct audit is solely dependent upon selection of persons under Section 214C. Had the authority to select persons for audit been solely vested in the Board under Section 214C then there was no need to incorporate Section 120(1A). All the Petitions have been dismissed by holding that the Commissioner has power to select case for audit.
(2015) PTD 2562 (H.C Sindh)	S.122(5A) of the Income Tax Ordinance, 2001	In this case the Hon'ble High Court after examining the provision of law under section 122(5A) has held that said provisions are not attracted for tax year 2003.
(2015) PTD 2533 (H.C Sindh)	S.153(1)(b) & (c) of the Income Tax Ordinance, 2001	In this case initially toll manufacturing receipts were treated under the provision of section 153(1)(c), however, the appellate fora treated the same as services falling under provisions of section 153(1)(b) of the Income Tax Ordinance, 2001. The Hon'ble High Court after examining the provisions of Section 153 has held that toll manufacturing receipt does not fall under section 153(1)(c) and fall under Section 153(1)(b) of the Income Tax Ordinance, 2001.
(2016) 113 Tax 32. (H.C. Lah.)	S. 21(g) of the Income Tax Ordinance, 2001	In this case it has been held by the Hon'ble Lahore High Court that disallowance of payment of default surcharge under section 34 of the Sales Tax Act, 1990, was not hit by mischief of section 21(g) of the Income Tax Ordinance, 2001, as the default surcharge/ additional tax is neither a penalty or fine under section 34 of the Sales Tax Act, 1990.
(2016) PTD 100 (H.C. Sindh)	S.153(1)(b) & (c) of the Income Tax Ordinance, 2001	It will be recalled that in the case of Engro Vopak Terminal Ltd. Vs. Pakistan (2012 PTD 130) the said company had contended for Tax year 2003 and 2004 that the payments to which it is entitled as result of the operation of its terminal come within the scope of Section 153(1)(c) of the Income Tax Ordinance, 2001 therefore, it is final tax. The department had contended on the other hand that the payments received by the company comes within the scope of Section 153(1)(b) and clause (42) of Part-IV of the Second Schedule provides that 153(3) does not apply, inter alia, to payments received by the resident person for providing services by way of operation of oil terminal at a sea port in Pakistan. Therefore, the department's case was that receipt will fall under normal law. The Hon'ble High Court after examining the case of Premier Mercantile Services (Pvt) Vs. CIT 2007 PTD 2521(in which case despite definition of services being 'inclusive' the Hon'ble Court had

CITATION	SECTION(S)	ISSUE(S) INVOLVED
		<p>restricted its application to those services of persons who require professional qualifications) on such basis relief was granted in the case of Engro Vopak (referred above).</p> <p>In this particular judgment such view (view of Engro Vopak) has been held to be distinguishable. The Hon'ble High Court observed that the provision of Section 153 (1)(c) at the time (Engro Vopak case) were different from the provisions relating to tax year 2012 to 2014. It has been held that the definition of service is inclusive in nature. (The learned members are requested to read the judgment to understand the issue in hand. The members are also requested to read judgment of Hon'ble Peshawar High Court reported in (2015) 112 Tax 479 which is also on the issue of Section 153 with reference to definition of term service).</p>
(2016) 113 TAX 1. (H.C. Lah.) - <b>PROVINCIAL AGRICULTURAL INCOME TAX</b>	S. 3B of the Punjab Finance Act, 2013	In this case the Petition challenged the interpretation of section 3B of the Punjab Finance Act, 2013 by the Departmental authorities on the ground that the respondent have sought to recover agricultural income tax with retrospective effect. The Petition of the Petitioner was allowed by holding that charge of tax cannot be recovered retrospective.

# SYNOPSIS OF IMPORTANT CASE LAW

## MISCELLANEOUS

CITATION	SECTION(S)	ISSUE(S) INVOLVED
(2015) 112 TAX 2498 - (H.C. Pesh.)	Article 199 of the Constitution	In this case Hon'ble High Court of Peshawar while examining the scope of Article 199 of the Constitution has opined that the interim order passed by a constitutional court would have a life of six months provided the main constitution petition is finally decided. In cases where main constitutional petition is not decided within six month period the interim order passed therein would remain in force till its revocation or its merger in the main constitution petition.
(2015) 112 TAX 209 (S.C. Pak)	The Constitution of Pakistan	<p>In this case the Hon'ble Supreme Court of Pakistan has dealt with certain provisions of the Constitution which directly relate to structure, foundational organs and concept of state. Their lordships also explained the responsibility of executive authority, appointment of Federal Minister and Ministers of State and also examined the conduct thereof. Their lordships also examined the scope and importance of judicial branch of State.</p> <p>The Hon'ble Supreme Court of Pakistan has also examined the factum of late pronouncement of judgments.</p> <p>(This judgment is of a far reaching effect and members are requested to read it carefully).</p>
(2015) 112 TAX 57 (S.C. Pak)	Urban Movable Property Tax Act, 1958	In this case the Hon'ble Supreme Court of Pakistan while examining the taxing statute of Urban Movable Property Tax Act has reiterated principle of law of taxation that charging section in a fiscal statute as per the settled law, demands, its strict interpretation and application in so far as revenue is concerned but where it is susceptible to two possible interpretation it should be liberally construed in favour of the taxpayer/citizen; particularly where there is substantial doubt the true import of an application of a charging section, it (the doubt) should be resolved in favour of tax payer/ citizen.