

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 3 of 2025

Shaikh Mohammad Pervez
Vs.

Federation of Pakistan through Secretary, Revenue and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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29-1-2025.	M/s Abid Hussain Shaban, Muhammad Asad Ashfaq and M. Amayad Ashfaq Tola, Advocates for the Petitioner. Hafiz Ehsaan Ahmed Khokhar, Advocate for the respondents. Rana Imran Farooq, Assistant Attorney General.
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1. The Petitioner [Shaikh Mohammad Pervez] has filed the instant Petition seeking declaration that Section 4C of the Income Tax Ordinance, 2001 (“**Income Tax Ordinance**”) is *ultra vires* the fundamental rights guaranteed under Articles 18, 23 and 24 of the Constitution. The Petitioner assails the retrospective applicability of the substituted Division IIB of Part I of the First Schedule to the Income Tax Ordinance. The Petitioner further seeks direction to the Respondents [Secretary, Revenue; Member (Inland Revenue-Policy), Federal Board of Revenue (“**FBR**”), Islamabad; and Member (Operations), FBR, Islamabad] to refrain from reducing the refund of the Petitioner arising out of advance tax payments through higher rate of levy and/or levy on income that is subject to final tax.

2. The learned counsel for the Petitioner submitted that the matter has already been decided by the learned Bench-VI of this Court against which I.C.As are pending before Special Division

Bench of this Court as such the instant writ may be disposed of in light of such judgments.

3. The learned counsel for the FBR argued that the Judgment dated 20-7-2023 passed by Bench-VI of this Court in W.P. No. 4027 of 2022 re: *M/s Fauji Fertilizer Company Limited and another vs. Federation of Pakistan and others*, and relied upon by the Petitioner has inter alia held that Section 4C as read down, will have prospective application only, and will not apply to any transactions or events past and closed on or before 30th June, 2022. As such he argued that the Petitioner cannot seek any benefit of such judgment in respect of its tax return for the year 2024 as prayed for particularly considering that the Petitioner has already filed its return for the year 2023. He also objected to the maintainability of the instant petition by stating that the Petitioner is based in Karachi.

4. In rebuttal, with regard to maintainability of the petition the learned counsel for the Petitioner relied upon W.P. No. 2436/2023 re: *Pakistan Oilfields Limited and another Vs. Federation of Pakistan and others* to refute such objection by stating that the matter has already dealt with in abundant detail.

5. I have heard the learned counsel for the parties and have perused the file.

6. The interpretation of the FBR of the judgment passed in *M/s Fauji Fertilizer Company Limited (Supra)* is misconceived. The said judgment unambiguously provides that the read down Section 4C of the Income Tax Ordinance shall only have prospective effect and shall not

apply to past and closed transaction on or before 30th June, 2022. The instant petition pertains to the tax year 2024 and as such falls squarely within the ambit of the judgment relied upon by the learned counsel for the Petitioner i.e. *M/s Fauji Fertilizer Company Limited (Supra)*.

7. Since the matter has already been decided.

8. Following the principle settled in *Multiline Associates (Supra)* the instant Petition is disposed of in terms of Judgments dated 15-3-2024 and 20-7-2023 passed by Bench VI of this Court in W.P. No. 2436/2023 re: *Pakistan Oilfields Limited and another Vs. Federation of Pakistan and others* and W.P. No. 4027/2022 re: *M/s Fauji Fertilizer Company Limited and another vs. Federation of Pakistan and others*, respectively, whereby various writ Petitions were decided.

(SAMAN RAFAT IMTIAZ)
JUDGE