### Form No: HCJD/C-121 ORDER SHEET

# IN THE ISLAMABAD HIGH COURT, ISLAMABAD (JUDICIAL DEPARTMENT)

#### W.P. No.3540/2021

#### Sheikh Farukh Saleem

#### Versus

## Federation of Pakistan through Secretary, Ministry of Law and Justice, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23-11-2021	Mr Shehzada Mazhar, Advocate for petitioner. Syed Muhammad Tayyab, Dy. Attorney General.
		Ch. Muhammad Nawaz, Advocate for respondent.

Athar Minallah, C.J.- Through this constitutional petition, the petitioner has challenged the vires of the amendments made in the Customs Act, 1969 through the Tax Laws (Third Amendment) Ordinance, 2021.

2. At the very outset, the learned counsel for the petitioner was asked to satisfy this Court regarding maintainability of the petition because nothing has been placed on record to indicate that the latter could be treated as an aggrieved person in the context of Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the 'Constitution').

3. The learned counsel has argued that the petitioner is engaged in the business of clearance of imported goods and, therefore, his rights could be prejudiced because of the ultra vires amendments made in the Customs Act, 1969. In response to the query of this Court, the learned counsel could not show any proceedings that may have been initiated against the petitioner pursuant to the impugned amendments made in the Customs Act, 1969. It is an admitted fact that neither a notice has been issued by the competent authority nor any order has been passed against the petitioner pursuant to the impugned amendments introduced in the Customs Act, 1969. It is settled laws that while exercising jurisdiction under Article 199 of the Constitution, a High Court does not adjudicate academic questions. In the facts and circumstances of the case in hand, the vires have been challenged in absence of any notice, order or action taken by the competent authority. The adjudication of the prayer sought in the petition would, therefore, be a mere academic exercise. However, the petitioner, if so advised, would be at liberty to challenge the vires before a

competent court in case adverse proceedings are initiated pursuant to the impugned legislation.

4. For the above reasons, at this stage, the petition is not maintainable and, therefore, accordingly <u>dismissed.</u>

(CHIEN/JUSTICE)

Lugman Khan.