

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench-II:

Mr. Justice Syed Mansoor Ali Shah
Mrs. Justice Ayesha A. Malik
Mr. Justice Irfan Saadat Khan

C.P.L.A.836-K to 887-K, 951-K, 1056-K, 1296_K of 2020 & 741-K to 743-K of 2021 and 165-K/2022.

Federation of Pakistan through Revenue Division, etc.

..... Petitioner(s)

Versus

Dewan Motors (Pvt) Ltd., etc.

....Respondent(s)

For the petitioner(s): Mirza Nasar Ahmad, ASC (thr. video-link)
 Mr. M. Nadeem Qureshi, ASC
 Raja M. Iqbal, ASC.

For the respondent(s): Mr. Salah-ud-Din, ASC.
 Mr. Haider Waheed, ASC.
 Mr. Imran Iqbal, ASC.
 Mr. Ghulam Haider Sh, ASC
 Mr. Hussain Ali Amani, ASC.(thr. video-link)
 Mr. Afzal Awan, ASC.
 Mr. Pervaiz Akhtar Tahir, ASC.

Date of hearing: 13.01.2025

ORDER

At the very outset, the learned counsel for the petitioners submitted that the present regular bench of the Court cannot hear these cases, as they involve a challenge to the constitutionality of a law, namely, subsection (2) of Section 221-A of the Customs Act, 1969. When asked why this bench cannot hear these cases, the learned counsel referred to the provisions of Article 191A, which was added to the Constitution of the Islamic Republic of Pakistan through the 26th Constitutional Amendment. In response to the petitioners' objection regarding the lack of jurisdiction of the present bench of the Court, the learned counsel for the respondents contended that Article 191A, the basis of the objection regarding jurisdiction, is constitutionally invalid as it infringes upon the salient features of the Constitution, including the independence of the judiciary and the separation of powers among the three organs of the State. He further submitted that a constitutionally invalid amendment cannot oust the constitutionally valid conferment of jurisdiction on the regular benches of the Court.

2. When asked how the present bench of the Court can decide upon the constitutional validity of the newly added Article 191A, the learned counsel for the respondents took the position that since the objection raised and the basis thereof pertain to the jurisdiction of the present bench, it must be decided by it. In support of his stance, he referred to *Sabir Shah v. Shad Muhammad Khan* (PLD 1995 SC 66), *Fazlul Quader Chowdhry v. Abdul Haque* (PLD 1963 SC 486) and *Marbury v. Madison* (5 US 137 [1803]) and sought time to further assist the Court on this point.

3. Given the objection raised and the reply thereto, we find that it would be necessary to first decide upon the same before proceeding further in the matter at hand. Therefore, the learned counsel for the parties are granted time to prepare their arguments and assist the Court on the said points. The hearing for arguments on those points is adjourned to **16.01.2025**.

Judge

Judge

Islamabad,
13th January, 2025.

Approved for reporting
Iqbal

Judge