

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Bench-I:

Mr. Justice Syed Mansoor Ali Shah

Mr. Justice Athar Minallah

Mr. Justice Irfan Saadat Khan

C.P.1178-K to 1188-K/2022, C.P. 2846 to 2906/2023, C.P. 3309/2023, C.P. 3584/2023. C.P. 740-K to C.P. 755-K/2023, C.P. 939-K/2023 and C.P. 1026-K/2023

(Against the order(s) of High Court of Balochistan, Quetta dated 27.06.2022, passed in C.P. No.959 of 2020, etc.

Against the judgment (s) of Peshawar High Court, dated 06.04.2023, passed in W.P. No.3620-P of 2020, etc.

Against the order of Peshawar High Court, dated 13.06.2023, passed in W.P. No.2376-P/2023

Against the order(s) of High Court of Sindh at Karachi, dated 14.03.2023, passed in CPD 1090 of 2021, etc.

Against the order(s) of High Court of Sindh at Karachi, dated 16.06.2023, passed in C.P.No.D-2892 of 2023)

Commissioner Inland Revenue (In CP 1178-K to 1188-K/2022)

Federal Board of Revenue through Chairman FBR House, Islamabad, etc. (In CP 2846, 2850 to 2906/2023)

Chief Commissioner Inland Revenue Regional Tax Office, Peshawar, etc. (In CP 2847 to 2849/2023)

Chief Commissioner Inland Revenue Regional Tax Office, Peshawar, etc. (In CP 3309/2023)

Regional Tax Office Peshawar, through its Chief Commissioner, Peshawar (In CP 3584/2023)

The Commissioner Inland Revenue, etc. (In CP 740-K to 755-K/2023, 939-K and 1026-K/2023)

..... Petitioner(s)

Versus

SKB-KNK Joint Venture, etc.

Sultan Mehmood & Company, etc.

Saadullah Khan & Brothers, etc.

M/s. Quetta Electric Supply Co. Ltd.(QESCO), etc.

M/s. Saindak Metals Ltd., etc.

Zahir Khan, etc.

Syed Allaudin, etc.

M/s. Qasim Khan & Company, etc.

Shafi & Sons LPG Company, etc.

M/s. Abdul Ali Trading Company, etc.

Mohabat Khan, etc.

ALPHA Pipe Industries (Pvt) Limited Peshawar, etc.

M/s Utman Ghee Industry Pvt Ltd through its Tax Manager, etc.

M/s Cherat Packaging Ltd Swabi, etc.

M/s Cherat Cement Co. Ltd, Nowshera, etc.

Northern Bottling Company Pvt Ltd Peshawar, etc.

M/s MB Dyes Chemical & Silk Industry Swabi, etc.

M/s A.A. Paper Pvt Ltd Peshawar Cantt, etc.

Mobile Sales & Distribution Pvt Ltd Peshawar Cantt, etc.

M/s CCGC-GRC JV (China Gezhouba Group and Ghulam Rasool & Co Joint Venture), Haripur, etc.

M/s CCGC-GRC JV (China Gezhouba Group and Ghulam Rasool & Co. Joint Venture) Haripur, etc.
Rehman Cotton Mills Ltd District Mardan Khyber Pakhtunkhwa, etc.
Gadoon Textile Mills Ltd District Swabi Khyber Pakhtunkhwa, etc.
Rehman Medical Institute, Peshawar, etc.
Khazana Sugar Mills Ltd Peshawar, etc.
M/s Haroon Enterprises, Peshawar, etc.
M/s. Pharmanet Village Jhagra thr. its Partner, etc.
M/s Al Noor Drug Agency Peshawar, etc.
M/s GHC (Ghulam Habib & Company) International Pvt. Ltd Peshawar Cantt, etc.
Ahead Brands (SMC - Pvt) Limited Peshawar, etc.
The Bank of Khyber Peshawar, etc.
M/s Al Imdad Textiles Pvt Ltd Peshawar, etc.
M/s Al-Imdad Textiles Pvt Ltd Peshawar, etc.
M/s Amanullah Khan & Co. District Kohat, etc.
Karwan Builders Engineers and Constructors Peshawar, etc.
M/s. Tarbella Steel Re-Rolling Mills pvt LTD, etc.
M/s Associated Industries Ltd Nowshera, etc.
M/s Atif Khan Khattak & Co. Peshawar, etc.
M/s. Lucky Star Flour, etc.
M/s. Sohail Vegetable Ghee Mills Pvt. Ltd, etc.
Forest Development Corporation Hayatabad, etc.
M/s. Haji Masood-ur-Rehman, etc.
M/s Daudsons Armoury Pvt Ltd Peshawar, etc.
M/s. R.K. Enterprises, etc.
M/s. Shah Enterprises, etc.
M/s Atif Enterprises Pvt Ltd, Dargai, Malakand, etc.
M/s. Younas & Associates, etc.
M/s Mega Plus Pakistan Mega Plus Tower, Peshawar Cantt, etc.
Malik Abdul Jalil, etc.
M/s. Waqar Muhammad, etc.
M/s Al Hafiz Crystoplast Pvt Ltd Hayatabad, etc.
Abid Ullah Peshawar, etc.
Hayatabad Medical Complex through its Hospital Director Peshawar, etc.
Muhammad Irfan Naveed, etc.
M/s Naseer Khan Traders Nowshera, etc.
Atif Shehzad Makka Agency Peshawar, etc.
Mohsin Match Factory Pvt Ltd Peshawar, etc.
M/s. M. Royal Builders (Pvt) LTD, etc.
M/s Bright Star Business Solutions Pvt Ltd Peshawar Cantt, etc.
Moon Light Traders (SMC-Private) Ltd Peshawar Cantt, etc.
M/s Nadeem Traders, etc.
Madina Enterprises Mardan, etc.
Madina Enterprises Mardan, etc.
M/s Drug Agencies Peshawar, etc.
Peshawar Electric Supply Company (PESCO), Peshawar, etc.
M/s. Swat Agro Chemicals, etc.
Muhammad Kashif alias Kashif Khan, etc.
M/s A.J. Textile Mills Ltd Gadoon Amazai, etc.
Bakht Muhammad Peshawar, etc.
M/s. SA & Associates, etc.
M/s. Naseer Khan Construction Co, etc.
M/s. Said Ullah Shah & Co Carriage Contractor, etc.
M/s Lucky Cement Limited Peshawar, etc.
M/s Sichuan Sarwar Silian Chongqing Luyang (JV), Peshawar, etc.

Muhammad Iqbal Shaikh, etc.
 M/s. Kenjhar Industries (AOP), etc.
 M/s. Premier Oil Industry (Private) Limited, etc.
 M/s. Rainbow Hi-Tech Engineering, etc.
 M/s. Rainbow Hi-Tech Engineering, etc.
 M/s. Rainbow Hi-Tech Engineering, etc.
 M/s. G.M.Sons Builders & Developer
 M/s. Three Star Construction Company
 Muhammad Arif Memon
 M/s. Sukkur Township
 M/s. Faraz Brothers Builders & Developers
 Abdul Qudoos Chachar
 Naveed Aslam
 M/s. Khurshid Builders Association
 Shafqat Ali Siyal
 M/s. Ahmed Textile
 Bashir Ahmed Soomro
 M/s. Tulsie Das & others

....**Respondent(s)**

In Attendance:

Mr. Mansoor Usman Awan,
 Attorney General for Pakistan.
 Ch. Aamir Rehman, Addl. AGP.
 Malik Javed Iqbal Wains, Addl. AGP.
 Mr. Sultan Mazhar Sher, Addl. AG, KPK.
 Mr. M. Ayaz Khan Swati, Addl. AG, Balochistan.
 Mr. Zahif Yousaf Qureshi, ASC/AOR
 Dr. Shah Nawaz, ASC.
 Mr. M. Tariq, ASC.
 Mrs. Asma Hamid, ASC.
 Mr. Jehanzeb Awan, ASC.
 Mr. Adnan Basharat, ASC.
 Mr. Ghulam Shoaib Jally, ASC.
 Mr. Qaim Ali, ASC.
 Barrister Babar Shahzad Imran, ASC.
 Mr. Aamir Bilal, ASC.
 Mr. Muhammad Ishaq Nasar, ASC.
 Qazi Ghulam Dastagir, ASC.
 Mr. Jahanzeb Mahsud, ASC.
 Mr. Shahid Qayum Khattak, ASC.
 Mr. Asad Jan, ASC.
 Mr. Shahid Qayyum, ASC.
 Mr. Muhammad Tariq, ASC.
 Mr. Isaac Ali Qazi, ASC.
 Mr. M. Munir Piracha, ASC.
 Mr. Munawar Ali Memon, ASC.
 Dr. Raana Khan, AOR.
 Mr. M. Sharif Janjua, AOR.
 Mr. Muhammad Amir Malik, AOR.
 Syed Rifaqat Hussain Shah, AOR.
 Mr. Anis Muhammad Shahzad, AOR.
 Mst. Abida Parveen Channar, AOR.
 Mr. Javed Masood Tahir Bhatti, AOR.
 Asim Ahmad Member (Legal)
 Asima Hoori, Chief (Legal)
 Mirza Nasir Ali, Chief Formation.

Mir Badshah Khan Wazir, Member IR.
Mr. Sohail Abbas, Secretary (Jurisdiction)
Mr. Abdul Salam Khan, Addl. Com. LTO.
Mr. Abdul Wahid, Addl. Comm. FBR.
Zahoor Ahmad, D.M.L (FDC)
Muhammad Nasir, Representative of CGGC

Date of hearing: 23.04.2024

ORDER

Syed Mansoor Ali Shah, J.- The petitioners have challenged the notification dated 05.08.2020 issued under Section 209 of the Income Tax Ordinance, 2001 ("**Ordinance**") by virtue of which Chief Commissioner Inland Revenue, Karachi was conferred the jurisdiction over LTU based in Quetta. Similarly, the Chief Commissioner LTU, Islamabad was given jurisdiction over LTU cases of Peshawar. The result of this was that LTU cases in Quetta and Peshawar stood transferred to Karachi and Islamabad respectively.

2. During the course of proceedings, the aforesaid Notification were withdrawn vide orders passed by the Board dated 12th and 13th March, 2024, copy of which have been placed on the record, therefore, the issue in hand has come to an end. Resultantly, the titled petitions have borne fruit and are disposed of accordingly.

3. However, during the course of arguments, number of legal questions were raised, which were recorded in paragraph 2 of our previous order dated 14.03.2024. During the course of arguments, it was pointed out that Section 8 of the Federal Board of Revenue Act, 2007 ("**Act**"), which deals with Functions and Powers of the Board needs a revisit and reexamination so as to clarify whether the "delegation" in the said provision applies to the powers vested in the Board relating to all the fiscal laws, which do not provide for any such delegation in their respective laws; secondly the delegation under Section 8 of the Act has to be subject to such conditions "as it deem necessary" and no such conditions have been spelled out in the delegation notification.

4. Learned Attorney General for Pakistan frankly conceded that delegation of the powers of the Board under Section 8 to any "government agency" or to "an employee" of the FBR

appears to be beyond the scope of the law and needs reconsideration.

5. It is also noticed that the Policy Board envisaged under Section 6 of the Act has not been given effect to. Further section 14 of the Act provides for collection and maintenance of data bank which has also not been fully established because in a number of cases before us FBR is not in a position to apprise the Court whether the FBR has filed appeal against its earlier orders and whether the issue before the Court today stands resolved in earlier round of litigation. Such a data can expedite tax cases and can be of assistance to the courts and needs to be developed accordingly.

6. Faced with this situation, learned Attorney General for Pakistan submits that the questions mentioned in paragraph 2 of our order dated 14.03.2024 and framed in this order will be fully addressed in the upcoming Finance Act. He further submits that as far the establishment of Policy Board is concerned, immediate steps will be taken and it is expected that the Policy Board will be fully functional shortly.

7. Therefore, as far as the main cases are concerned, the same have been disposed of as having borne fruit as the impugned notifications have been withdrawn. Let these cases now be posted in the 2nd week of July 2024 for report of the Attorney General for Pakistan regarding the concerns raised by this Court.

Judge

Judge

Islamabad,
23rd April, 2024.
Not approved for reporting
(but to be uploaded on the
s.c. website for information)
Iqbal

Judge