

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Constitutional Bench:

Justice Amin-ud-Din Khan, Senior Judge
Justice Jamal Khan Mandokhail
Justice Muhammad Ali Mazhar
Justice Syed Hasan Azhar Rizvi
Justice Musarrat Hilali
Justice Naeem Akhter Afghan
Justice Shahid Bilal Hassan

CIVIL PETITIONs NO.836-K to 887-K, 951-K,1056-K,1296-K of 2020
and

CIVIL PETITIONs NO.741-K to 743-K, of 2021 and
CIVIL PETITION NO.165-K of 2022 and

CIVIL PETITIONs NO.1143-K to 1173-K of 2024

(on appeal from the judgments dated 06.08.2020, 15.10.2020, 07.04.2021, 22.02.2021, 05.11.2021, 17.10.2024, 30.10.2024 passed by High Court Of Sindh, Karachi in Const. Petitions No.D-4658/2018, 1894/2017, 4660, 4684, 4685, 4697, 4696, 4700, 4706 to 4710, 4717, 4718, 4729, 4730, 4734-4740, 4742 to 4745, 4753, 4760,4761, 4763, 4774, 4792, 4793, 4820, 4841, 4857, 4858, 4864, 4870, 4875 to 4878, 4913, 5512, 8584 to 8587/2018, 2317/2019, 4422/2020, 5699/2018, 4423/2020, 2613, 2707, 3293, 3980, 1611, 1701, 2120, 2325, 3130, 3808, 4741, 1611, 1701, 2120, 2325, 3130, 3808, 4741, 4045, 1618, 2302, 2735 to 2737, 2950, 3092, 3093, 3178, 3342, 3423, 3553, 3789, 4003, 8687 and 8688/2018)

Federation of Pakistan through Revenue Division & others

(CPs 836-K to 887-K, 951-K,1056-K,1296-K of 2020)

The Collector of Customs

(CP 741-K to 743-K/21 & 165-K/22,1143-K to 1173-K/24
...Petitioners

Versus

Dewan Motors (Pvt) Ltd.
Al Razzak Fibers Pvt.Ltd & others
M/s. Tariq Chobdar
M/s. Piva International & others
M/s. AKK Enterprises (SMC-Pvt Ltd.
Nishat Hotels and Properties Ltd.
Firhaj Footwear Pvt.Ltd
Shaikh Muhammad Ishtiaq & others
Nishat Liners (Pvt) Limited
Nishat Mills Ltd.
M/s. Tetra Pak (Pakistan) Limited
M/s. Ruby Steel Corporation (Pvt) Ltd. & others
M/s. British Steel Traders
Inovi Technologies
M/s. Berger Paints Pvt. Ltd & others

(CP 836-K/20)
(CP 837-K/20)
(CP 838-K/20)
(CP 839-K/20)
(CP 840-K/20)
(CP 841-K/20)
(CP 842-K/20)
(CP 843-K/20)
(CP 844-K/20)
(CP 845-K/20)
(CP 846-K/20)
(CP 847-K/20)
(CP 848-K/20)
(CP 849-K/20)
(CP 850-K/20)

M/s. Advance Telecom	(CP 851-K/20)
M/s. Tariq Chobdar & another	(CP 852-K/20)
M/s. Mehboob Steel Pipe Industry & another	(CP 853-K/20)
M/s. Global Steel Corporation & others	(CP 854-K/20)
M/s. Majeed & Sons Steels (Pvt) & another	(CP 855-K/20)
M/s. Premier Industrial Chemical Mfg Co.Pvt.Ltd.	(CP 856-K/20)
M/s. Salman Enterprises & others	(CP 857-K/20)
Ayoub Steel Traders & others	(CP 858-K/20)
M/s. Raja Steel & others	(CP 859-K/20)
M/s. Saify Iron (Pvt) Ltd.	(CP 860-K/20)
M/s. Shah Brothers	(CP 861-K/20)
Royal Trading Company	(CP 862-K/20)
M/s. King Toys	(CP 863-K/20)
Reckitt Benckiser Pakistan Limited.	(CP 864-K/20)
M/s. Indus Motor Company Limited	(CP 865-K/20)
M/s. Ayan Energy Limited.	(CP 866-K/20)
M/s.Shakir Hussain Jivani & others	(CP 867-K/20)
M/s. Pakistan Steel Imports Company & another	(CP 868-K/20)
M/s. Izhar Steel (Pvt) Ltd.	(CP 869-K/20)
M/s.Bays International Pvt.Ltd. & others	(CP 870-K/20)
M/s. H.A.Corporation & others	(CP 871-K/20)
M/s.Tara Iperail Industries (Pvt) Ltd.	(CP 872-K/20)
M/s. Perfect Craft (SMC-Pvt) Ltd.	(CP 873-K/20)
M/s.S.O.R.Steel & others	(CP 874-K/20)
M/s. Ittefaq Electric Traders & others	(CP 875-K/20)
M/s. Avari Hotels Limited.	(CP 876-K/20)
M/s. B.B.N.Energy (Pvt) Ltd	(CP 877-K/20)
M/s. Uniferoz	(CP 878-K/20)
M/s.Otsuka Pakistan	(CP 879-K/20)
M/s. Akzo Nobel Pakistan Limited	(CP 880-K/20)
M/s. Atlas Honda Limited	(CP 881-K/20)
M/s. Faheem Enterprises & another	(CP 882-K/20)
M/s.Tayyab Corporation	(CP 883-K/20)
M/s. Ateeq Auto Traders	(CP 884-K/20)
M/s.Shafiq Sons	(CP 885-K/20)
M/s. Mian Shafiq Business International	(CP 886-K/20)
M/s.Islam Engineering (Pvt) Ltd	(CP 887-K/20)
M/s. Madina Sugar Mills (Pvt) Ltd.	(CP 951-K/20)
M/s. Chief Enterprises	(CP 1056-K/20)
M/s. Faisalabad Oil Refinery (Pvt) Ltd.	(CP 1296-K/20)
Orient Textile Mills Ltd & others	(CP 741-K/21)
Zaman Textile Mills (Pvt) Ltd & others	(CP 742-K/21)
Al Razzaq Fibers (Pvt) Ltd & others	(CP 743-K/21)
M/s. Morgen & Tag & others	(CP 165-K/22)
M/s. Indus Motor Company & others	(CP 1143-K/24)
M/s. M. T. Tiles & Traders & others	(CP 1144-K/24)
M/s. MCR (Pvt) Limited & others	(CP 1145-K/24)
M/s. Ayesha & Marriam (Pvt) Limited & others	(CP 1146-K/24)
M/s. Digital World Pakistan Pvt. Ltd. & others	(CP 1147-K/24)
M/s. Firhaj Footwear Pvt. Ltd. & others	(CP 1148-K/24)
M/s. Noble Steel Mills (Pvt) Limited & others	(CP 1149-K/24)
M/s. Indus Motor Company Limited & others	(CP 1150-K/24)
M/s. M.T. Tiles & Traders & others	(CP 1151-K/24)
M/s. MCR (Pvt) Limited & others	(CP 1152-K/24)

M/s. Ayesha & Marriam (Pvt) Ltd. & others	(CP 1153-K/24)
M/s. Digital World Pakistan (Pvt) Ltd, & others	(CP 1154-K/24)
M/s. Firhaj Footwear (Pvt) Ltd. & others	(CP 1155-K/24)
M/s. Nobal Steel Mills (Pvt) Limited & others	(CP 1156-K/24)
M/S Shaikh Tube Mills & others	(CP 1157-K/24)
M/S Time Steel & others	(CP 1158-K/24)
M/S Ayoub Steel Traders & others	(CP 1159-K/24)
M/S Lucky Star Steel Ind(Pvt) & others	(CP 1160-K/24)
M/S New Aijaz Engg & Manufacturers & others	(CP 1161-K/24)
M/S Raja Steel & others	(CP 1162-K/24)
M/S Best Choice FMGG & others	(CP 1163-K/24)
M/S New Aijaz Engg & Manufacturers & others	(CP 1164-K/24)
M/S Raja Steel & others	(CP 1165-K/24)
M/S Ibad Sheryar (Pvt) Ltd & others	(CP 1166-K/24)
M/S Islam Engineering(Pvt) Ltd & others	(CP 1167-K/24)
M/S Sidara Steel Re-rerolling Mills & others	(CP 1168-K/24)
M/S Steel Zone & others	(CP 1169-K/24)
M/S Inayat Pipe Ind (Pvt) Ltd & others	(CP 1170-K/24)
M/S Ittefaq General store & others	(CP 1171-K/24)
M/S Attractive International & others	(CP 1172-K/24)
M/S Fakhruddin Akber Ali & others	(CP 1173-K/24)
	...Respondents

For Petitioners:

Mirza Nasar Ahmad, ASC
Mr. Muhammad Iqbal Raja, ASC

Mr. Muhammad Khalil Dogar, ASC
K. A. Wahab, AOR
(via video link from Karachi)

On Court's Notice:

Mr. Mansoor Awan, AGP

For the Respondents:

Mr. Salahuddin Ahmed, ASC
Mr. Shahid Jameel Khan, ASC

Mr. Imran Iqbal Khan, ASC
Mr. Haider Waheed, ASC
Mr. Rashid Anwer, ASC
Mr. Ghulam Hyder Shaikh, ASC
(via video link from Karachi)

Date of Hearing:

28.01.2025

ORDER

Amin-ud-Din Khan, Senior Judge.— We have heard learned Attorney General for Pakistan as well as learned counsel for the parties and also gone through the files so also the orders. The orders dated 13.01.2025 and 16.01.2025, passed in these cases, are unanimously declared to be without jurisdiction and lawful authority, therefore, the same are

hereby recalled and the superstructure built thereupon also falls on the ground. As the subject matter of these civil petitions for leave to appeal is challenging the *vires* of sub-section (2) of section 221-A of the Custom Act 1969, therefore, under Article 191A(4) of the Constitution of Islamic Republic of Pakistan, 1973 ('**Constitution**'), these CPLAs were mistakenly/inadvertently fixed before the regular Bench and the regular Bench has assumed the jurisdiction without lawful authority. Accordingly, the above noted orders passed by the regular Bench in these CPLAs are *non est*. The Committees constituted under Article 191A(4) of the Constitution and under Section 2(1) of the Supreme Court (Practice and Procedure) Act, 2023 are the legal and Constitutional *fora* to determine which Bench shall hear what matters. The exercise of powers and performance of legal and Constitutional functions by both the Committees do not impinge upon the judicial functions of any Bench.

2. During the proceedings of these cases, Criminal Original Petition No.1/2025 was also initiated, wherein a notice was issued to the Additional Registrar (Judicial) of this Court as to why contempt proceedings may not be initiated against him. Later on, the said notice was challenged by the Additional Registrar in Criminal Intra Court Appeal No.1/2025, which was fixed before a Larger Bench. Later on, the notice was withdrawn *vide* order dated 27.01.2025 issued in Criminal Original Petition No.1/2025 by the Regular Bench. Criminal Intra Court Appeal No.1/2025 was also disposed of by the Larger Bench with majority of 4 to 2 (two Judges simply dismissed the ICA as withdrawn) *vide* order dated 27.01.2025.

3. Contentions raised before us and in the light of the points raised in the orders of this Court dated 07.02.2023 as well as dated 06.05.2021, leave to appeal is granted in these CPLAs. Office to issue notices to the respondents. Notice be also issued to the Attorney General for Pakistan under Order XXVII-A of the Code of Civil Procedure, 1908. Let the appeals arising out of the instant CPLAs be

fixed before the Constitutional Bench after completing the codal formalities. Office is also directed to tag the file of Criminal Original Petition No.1/2025 on the next date of hearing.

While agreeing, I will append my additional note.

Senior Judge

Judge

Judge

Judge

Judge

Judge

Judge

ISLAMABAD

28th January, 2025

Approved for Reporting

Mudassar/

I will also append my concurring note.

Muhammad Ali Mazhar-J