

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Miangul Hassan Aurangzeb

Civil Petitions No. 5929 to 5931 of 2024

*[Against the judgment dated 16.10.2024 of the
Peshawar High Court, Peshawar passed in Tax
Reference Nos. 27-P to 29-P of 2014]*

M/s F.C. Security Services (Pvt.) Limited, Peshawar. ... Petitioner
[in all cases]

Versus

*Commissioner Inland Revenue, Zone I,
Regional Tax Office, Peshawar. ... Respondent*
[in all cases]

For the Petitioner: Mr. Jahanzeb Masud, ASC.
[in all cases]

For the Respondent: Mr. Shahid Raza Malik, ASC.
[in all cases] *[through video-link from Peshawar]*

Dr. Ishtiaq Ahmed Khan,
Director-General, Law, FBR.
Mr. Arfat Rasool, Secretary Legal, FBR.
[Both at Islamabad]

Date of Hearing: 02.09.2025.

ORDER

Muhammad Shafi Siddiqui, J. Three connected Tax References were decided by the impugned consolidated judgment dated 16.10.2024 passed by the Peshawar High Court, Peshawar, whereby the petitioner was denied the exemption to pay tax on the income so derived.

2. We have heard the learned counsel for the parties and perused the material available on record. The petitioner, being Frontier Constabulary Security Services is a Private Limited Company and derived income by providing security services as its only prime business. The matter pertained to the tax years 2007, 2008 and 2009, wherein the petitioner sought

exemption from income tax under sub-clause (2)(i) of clause (58) of Part-I of the Second Schedule to the Income Tax Ordinance, 2001¹ (hereinafter referred to as '**the Ordinance**'). It is urged that petitioner is wholly owned by Frontier Constabulary Foundation, which itself enjoying exemption from income vide Special Education and Social Welfare Division SRO 205 (I)/86 dated 24.02.1986. Thus, in consequence thereof and being subsidiary of Frontier Constabulary Foundation, petitioner's income is also exempt from payment of tax and same yardstick should be followed.

3. The stance of the learned counsel representing the petitioner is contrary to the facts of the case. Petitioner do not fall in the category identified in sub-clause (2)(i) of clause (58) of Part-I of the Second Schedule of the Ordinance. The petitioner is an independent legal entity registered under company's laws and hence cannot derive such benefits as extended to the Frontier Constabulary Foundation.

4. Reliance was also placed on the certificate of exemption dated 04.09.2012, which for the purposes of convenience and understanding is reproduced as under:

'CERTIFICATE

Subject: EXEMPTION CERTIFICATE UNDER CLAUSE 58(2)(1) OF PART-I OF THE SECOND SCHEDULE TO THE INCOME TAX ORDINANCE, 2001.

It is certified that income received by M/S Frontier Constabulary Foundation, 5th Floor Trust Building, Peshawar Cantt, NTN- 3550254-1 from the following projects is exempt from tax as per Clause 58(2)(1) of Part-I of 2nd Schedule to the Income Tax Ordinance, 2001.

1. F.C. Welfare Filling Station Sunehri Masjid Road, Peshawar.
2. F.C. Trust Plaza (Diljan Plaza) Peshawar Cantt.
3. F.C. Trust Building, Peshawar Cantt.
4. F.C. Shopping Plaza, Thall District Kohat.

¹ (58) (1) Any income of a trust or welfare institution or non-profit organization specified in sub-clauses (2) and (3) from donations, voluntary contributions, subscriptions, house property, investments in the securities of the Federal Government and so much of the income chargeable under the head "Income from business" as is expended in Pakistan for the purposes of carrying out welfare activities:

Provided that in the case of income under the head "Income from business", the exemption in respect of income under the said head shall not exceed an amount which bears to the income under the said head the same proportion as the said amount bears to the aggregate of the incomes from the aforesaid sources of income.

(2) A trust administered under a scheme approved by the Federal Government in this behalf and established in Pakistan exclusively for the purposes of carrying out such activities as are for the benefit and welfare of-

- (i) ex-servicemen and serving personnel, including civilian employees of the Armed Forces, and their dependents; or
- (ii) ex-employees and serving personnel of the Federal Government or a Provincial Government and their dependents, where the said trust is administered by a committee nominated by the Federal Government or, as the case may be, a Provincial Government.

(3) A trust or welfare institution or non-profit organization approved by Regional Commissioner of Income Tax for the purposes of this sub-clause.

- 5. F.C. Welfare Supper Market, Shabqadar, District Charsadda.
- 6. F.C. Securities Services (PVT) Ltd.
- 7. F.C. Foundation School, Shabqadar.'

This certificate too is of no benefit to the petitioner. It only certified that the “income received by the Frontier Constabulary Foundation” from the Projects notified in the certificate (petitioner) are exempted from tax as per sub-clause (2)(i) of Clause (58) of Part-I of the Second Schedule of the Ordinance. Meaning thereby, that whatever income is derived by the Frontier Constabulary Security Services (Pvt) Limited is not exempted, whereas, if any of its income forwarded/extended to M/s Frontier Constabulary Foundation, that income of the “Foundation” is exempted. So, the entire income as derived by Frontier Constabulary Security Services (Pvt) Limited, being petitioner here, is liable to tax. With this understanding of law, these petitions are dismissed and leave to appeal is declined.

Chief Justice

Judge

Judge

Islamabad:
02.09.2025

Approved for Reporting
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