

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Shakeel Ahmad

Civil Petitions No. 70-K to 72-K of 2023

(Against the judgments/orders dated 15.11.2022 of the High Court of Sindh, Karachi passed in C.P.D-No. 5482/17, C.P.D-No.7172/2018 and C.P.D-No.5654/2019)

*The Directorate of Post Clearance Audit through its DG, FBR, Islamabad.
[in CPs. 70-K and 71-K/2023]*

*Collector of Customs, Karachi.
[in CP. 72-K /2023]*

...Petitioner

Versus

*Nestle Pakistan Limited, Islamabad and others.
[in CPs.70-K and 71-K/2023]*

*Pakistan State Oil Company Limited, Karachi and others
[in CPs.72-K/2023]*

...Respondents

AND

Civil Petitions No. 78-K, 90-K to 125-K of 2024

(Against the judgments/orders dated 21.11.2023 of the High Court of Sindh, Karachi passed in Special Customs Reference Applications No.1044 to 1080/2015)

The Collector of Customs, Karachi. [in all cases]

...Petitioner

Versus

*M/s Al-Amna International, Karachi.
[in CPs.78-K, 90-K to 116-K/2024]*

*M/s General Food Corporation, Karachi.
[in CPs.117-K to 123-K/2024]*

*M/s Prime Foods, Karachi.
[in CPs.124-K and 125-K/2024]*

...Respondents

AND

Civil Petition No. 585 to 612 of 2023

(Against the judgments/orders dated 15.11.2022 of the High Court of Sindh, Karachi passed in C.P.D-Nos.4245 to D-4259/21, C.P.D-Nos.4491/21, 1585, 1612, 1725, 1876, 1908, 1990 to 1994/19, C.P.D-No. 8667/17 and C.P.D-No. 4601/18)

*Collector of Customs, Model Customs Collectorate,
Appraisement & Facilitation, Karachi and others.
[in CPs.585 to 602/2023]*

*Collector of Customs, (Adjudication-I), Karachi and others.
[in CPs. 603 to 608, 610, 611 and 612/2023]*

*The Directorate of Post Clearance Audit through its DG, FBR and others.
[in CP.609 /2023]*

...Petitioners

Versus

*Shirazi Trading Company (Pvt.) Limited and others.
[in CPs.585 to 600/2023]*

*Attock Petroleum Limited, Rawalpindi and others.
[in CP.601/2023]*

*M/s Procon Engineering (Pvt.) Limited, Karachi and others.
[in CP.602/2023]*

*Be Energy Limited, Karachi and others.
[in CPs.603 and 604/2023]*

*M/s Hascol Petroleum Limited, Karachi.
[in CP.605/2023]*

*OTO Pakistan (Pvt.) Limited, Lahore and others.
[in CP.606/2023]*

*Pakistan State Oil Company Limited, Karachi and others.
[in CP.607/2023]*

*Gas and Oil Pakistan Limited, Lahore and others.
[in CP.608/2023]*

*Nestle Pakistan Limited, Lahore and another.
[in CP.609/2023]*

*Pakistan State Oil Company Limited, Karachi and others.
[in CPs.610 to 612/2023]*

...Respondents

AND

**CMA Nos.5901, 5900 & 5899/2024 in C.P.Nos.70-K, 71-K &
609/2023**
*[Preliminary objections filed by the respondents regarding maintainability of
the petitions]*

*The Directorate of Post Clearance Audit through its DG, FBR, Islamabad.
[in all CMAs]*

...Applicant

Versus

*Nestle Pakistan Limited, Islamabad and others.
[in all CMAs]*

...Respondents

AND

Civil Petitions No. 1006-K to 1018-K, 1043-K to 1057-K/24
(Against the judgments/orders dated 21.08.2024, 23.08.2024 and 28.08.2024 of the High Court of Sindh, Karachi passed in Special Customs Reference Application Nos.125 to 133, 496 to 499/2024 and Special Customs Reference Application Nos 241 to 255/13)

The Collector of Customs, Karachi.
[in CPs. 1006-K to 1018-K/2024]

Assistant Collector of Customs, Karachi.
[in CPs.1043-K to 1045-K/2024]

Deputy Collector of Customs, Karachi.
[in CPs.1046-K to 1057-K/2024]

...Petitioners

Versus

M/s S. M. Food Makers, Multan.
[in CP.1006-K and 1009-K/2024]

M/s Silver Lake Foods Limited, KPK.
[in CP.1007-K/2024]

M/s Usman Trade Linkers.
[in CP.1008-K/2024]

M/s ICI Pakistan Limited, Karachi.
[in CP.1010-K to 1018-K/2024]

M/s Engro Corporation Limited and another.
[in CP.1043-K to 1057-K/2024]

...Respondents

AND

Civil Petitions No. 189-K to 194-K of 2025
(Against the judgments/orders dated 03.12.2024 of the High Court of Sindh, Karachi passed in Special Customs Reference Application No. 782 to 787 of 2019)

Director, Directorate General, Intelligence and Investigation (Customs), Karachi.
[in all cases]

...Petitioner

Versus

M/s Haris Trading, Lahore and another.
[in CP. 189-K/2025]

M/s Lahore Color Co., Lahore and another.
[in CP.190-K/2025]

M/s Nabeel Brothers, Karachi and another.
[in CP.191-K/2025]

M/s Haj Enterprises, Karachi and another.
[in CP.192-K/2025]

M/s Rauf & Sons, Lahore and another.
[in CP.193-K/2025]

M/s Al Khair Corporation, Karachi and another.
[in CP.194-K/2025]

...Respondents

For the Petitioners:
(In CPs. 78-K, 90-K to 125-K/24,
189-K to 194-K/2025)

Dr. Farhat Zafar, ASC.

(In CPs.585 to 612/23 &
CPs.1010-K to 1018-K/24):

Ch. Muhammad Zafar Iqbal, ASC.

(In CPs.70-K to 72-K/2023):

Mr. Zahid F. Ebrahim, ASC.
[via video-link from Karachi]

(In CPs.1006-K to 1009-K &
1043-K to 1057-K/2024):

Ms. Masooda Siraj, ASC.
Ass: by Mr. Javed Hussain, Adv.
[via video-link from Karachi]

For Petitioners (Department):

Ch. Muhammad Javed,
Chief Legal Customs, FBR.
Mr. Muhammad Tahir, Director Law,
FBR.

For the Respondents:
(In CPs. 78-K, 90-K to 123-K/24)

Mr. Muhammad Afzal Awan, ASC.

For the Respondents:
(In CPs. 124-K & 125-K/24)

Nemo.

For the Respondents:
(In CPs.585 to 600, 603 to 604/24)

Mr. Hyder Ali Khan, ASC.

For the Respondents:
(In CP.601/23)

Mr. Umair Majeed Malik, ASC.

For the Respondents:
(In CP.602/23)

Syed Asghar Hussain Sabzwari, Sr. ASC.
[via video-link from Lahore]

For (IR/FBR):
(In CPs.585 to 604/23)

Dr. Shah Nawaz, ASC.
[via video-link from Karachi]

For the Respondents:
(In CPs.605/23, 1043-K to 1057-K/24)

Mr. Aziz ul Haque Nishtar, ASC.

For the Respondents:
(In CP.606/23)

Mr. Salman Riaz, Adv (Manager Legal)

For the Respondents:
(In CP.607, 610 to 612/23)

Mr. Sultan Mazhar Sher Khan, ASC.

For the Respondents:
(In CP.609, 70-K & 71-K/24)

Mr. Imtiaz Rashid Siddiqui, ASC.
Mr. Shehryar Kasuri, ASC.
[both via video-link from Lahore]

For the Respondents: Nemo.
(In CPs. 608 & 72-K/23)

For the Respondents: Not represented.
(In CPs. 1006-K to 1018-K/23
& CPs. 189-K to 194-K/23)

Mr. Abdul Ghaffar Khan, AOR
Mrs. Abida Parveen Channar, AOR
[via video-link from Karachi]

Dates of Hearing: 07.04.2025, 08.04.2025
09.04.2025 & 10.04.2025.

JUDGMENT

Yahya Afridi, C.J. This single judgment would decide all listed petitions, as a common question of law concerning the jurisdictional contours of the Pakistan Customs ("**Customs**") authorities is involved therein.

2. The High Court of Sindh, through impugned judgments and orders rendered in the connected matters, held that the authority of Customs to assess and recover sales tax and advance income tax is extinguished once the imported goods have crossed the customs barrier. The Federal Board of Revenue (the "**FBR**"), acting through its Collectorates and the Directorate of Post Clearance Audit (the "**PCA**"), now seeks leave to appeal against those decisions.

3. For the purpose of completeness, it would be pertinent to note that the learned Single Bench of the Lahore High Court vide judgment dated 30.11.2018¹ held otherwise, and declared that the authority of the Customs to assess and recover sales tax and advance income tax extended beyond the clearance of the goods. We have been informed that the said judgment is, however, not challenged before this Court.

¹ Reported as *Gulistan Textile Mills vs. Federation of Pakistan* (2019 PTD 393)

Factual Background

4. For the sake of brevity, and in order to decide the common questions of law arising in this group of petitions, it suffices to note that the respondents, who are importers engaged in diverse commercial activities (the “**respondents**”), had sought exemption from import-stage sales tax and advance income tax in respect of consignments brought into Pakistan. Such exemptions were claimed at the time of import with reference to provisions of the Sales Tax Act, 1990 (the “**Sales Tax Act**”) and corresponding notifications issued under the Income Tax Ordinance, 2001 (the “**Income Tax Ordinance**”)

5. The exemption claims so made at the time of import were processed and accepted by the assessing officers of the Customs Department, and the consignments were accordingly cleared upon payment of the residual customs duties, taxes, and other applicable charges.

6. A subsequent post-clearance audit conducted by the PCA revealed that the exemptions claimed and granted were not available under the law. Proceeding under Sections 32 and 179 of the Customs Act, 1969 (the “**Customs Act**”), read with Section 6 of the Sales Tax Act and Section 148 of the Income Tax Ordinance, the PCA issued show-cause notices within the statutory five-year limitation, demanding recovery of sales tax and advance income tax.

7. The respondents challenged these notices before the High Court of Sindh, which, by the impugned judgments, set them aside on the basis that jurisdiction of the Customs authorities to recover sales tax and advance income tax is extinguished upon clearance of goods under Section 80 of the Customs Act.

Preliminary Objection

8. Before we proceed to consider the merits of the present petitions, it would be pertinent to note that CMAs No. 5901, 5900, & 5899 of 2024 ("**CMAs**") were filed by M/s. Nestle Pakistan Ltd. (respondent in CPLA No. 70-K of 2023), raising preliminary objections to the maintainability of the present petitions, *inter alia*, on the ground that they were not instituted by duly authorized persons. Having considered the matter, we are not persuaded to uphold the objection. The petitions before us involve a common question of law arising out of judgments passed by the High Court of Sindh that has been impugned before us through the instant petitions. Even otherwise, we have noted that Civil Petition No. 609 of 2023 has been filed by, *inter alia*, Federation of Pakistan and thus, is beyond the scope of objection raised in the subject CMAs. It is a settled principle that, in such circumstances, the presence of one or more petitions with objections on maintainability does not preclude this Court from adjudicating upon the common issue arising from the judgments of the same High Court. Accordingly, the CMAs are dismissed, and we proceed to determine the common question of law on its merits.

Arguments of the Parties:

9. Learned counsel for the petitioner submits that Section 32 of the Customs Act empowers Customs to recover, within five years, any duty, taxes or charge not levied, short-levied, or erroneously refunded, and that this power is not confined to the pre-clearance stage. He further submitted that Sections 6 of the Sales Tax Act and 148 of the Income Tax Ordinance require import-stage sales tax and advance income tax to be charged, paid, and recovered in the same manner, as customs duty, thereby incorporating the procedural machinery of the Customs Act. He made specific references to the amendments introduced by the Finance

Acts of 2012, 2014, and 2015 as confirming the intent of the legislature to empower Customs to recover such levies, even in post-clearance stage. The essence of the arguments of the petitioners was thus, that customs duty, import-stage sales tax, and advance income tax form a single, integrated transaction, the assessment, collection, and recovery of which are procedurally indivisible and governed by the Customs Act.

10. On the other hand, the main thrust of the argument advanced by learned counsel for the respondents was that, since there is a separate statutory provenance for customs duty, income tax, and sales tax, each with its own charging and recovery provisions, the jurisdiction to recover any short-levied amount rests exclusively with the authority designated under the respective statute. Accordingly, once goods are assessed and cleared under the Customs Act, the recovery of sales tax or income tax, even if short-levied at the import stage, lies solely with the Inland Revenue authorities under the Sales Tax Act and the Income Tax Ordinance, and not with Customs.

Question of Law

11. The competing contentions of the parties crystallise the following question of law before us for determination:

Whether the Customs authorities have jurisdiction to recover import-stage sales tax and advance income tax discovered to be short-levied after clearance of goods due to a wrongly granted exemption.

12. The levy, collection, and recovery of import-stage fiscal imposts in Pakistan are regulated by three separate statutes: the Customs Act, the Sales Tax Act, and the Income Tax Ordinance. Each contains its own charging provisions, setting out the basis and scope of the liability imposed. At the same time, both the Sales Tax Act and the Income Tax

Ordinance contain provisions that refer to the manner and timing of collection at the import stage, making cross-reference to the procedural framework of the Customs Act. The extent to which these cross-references operate to create a single process for assessment, collection, and recovery, and whether that process continues to apply after clearance, the matter to be determined in this case.

Customs Act

13. To begin with, Section 32(2) of the Customs Act provides that:

“Where, by reason of any such document or statement as aforesaid or by reason of some collusion, any duty, taxes or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within five years of the relevant date, requiring him to show cause why he should not pay the amount specified in the notice.

(emphasis provided)

The language of this provision is significant in two respects. **First**, the word “*taxes*” is expressly included alongside “*duty*” and “*charge*”, by virtue of the Finance Act, 2014. This clarifies that Section 32 applies to fiscal imposts other than customs duty, including those collected at the import stage under the Sales Tax Act and the Income Tax Ordinance. **Second**, the provision contains no temporal restriction limiting its application to pre-clearance situations or an express bar to exercise its authority post clearance of imported goods. On the contrary, the five-year limitation period presumes that certain errors, particularly those discovered through post-clearance audit, will be detected long after the goods have been released.

14. In addition to Section 32, other provisions of the Customs Act empower the customs authorities to exercise its authority and can impose duties and taxes subsequent to the time of import. For instance, Section 80(5) allows the Collector of Customs to defer the examination of imported

goods and cause it to be performed at a place he deems fit. Similarly, Section 81 of the Customs Act allows an officer of Customs to order a provisional determination of duties and taxes, and thereafter, make a final assessment, after clearance, within a six-month period. Section 179 of the Customs Act, as amended by the Finance Act, 2012, further authorizes Customs officials to recover taxes and duties not levied, short-levied, or erroneously refunded. These provisions of the Customs Act, therefore, indicate that the process of assessment and recovery is not necessarily concluded at the point of clearance.

15. Turning then to the other statutes in issue, it must be noted that the Sales Tax Act and the Income Tax Ordinance are not only distinct but independent fiscal enactments, each with its own charging and recovery provisions. Yet, for the specific purpose of the collection at the import stage, both statutes make express reference to the procedural framework of the Customs Act.

Sales Tax Act

16. It is appropriate, first, to turn to the Sales Tax Act. Section 6(1) of the Sales Tax Act provides that:

6. Time and manner of payment. -

(1) The tax in respect of goods imported into Pakistan shall be charged and paid in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969 (and the provisions of the said Act [including section 31A thereof], shall, so far as they relate to collection, payment and enforcement [including recovery]² of tax under this Act on such goods where no specific provision exists in this Act, apply.

(emphasis provided)

Section 6(1) of the Sales Tax Act, as reproduced above, presents three distinct aspects that require consideration for present purposes. **First**, Section 6(1) provides that tax in respect of goods imported into Pakistan

² The word inserted by the Finance Act, 2015 (V of 2015), (Assented on: 29th June, 2015).

"shall be charged and paid in the same manner and at the same time as if it were a duty of customs". It is noteworthy that the phrases *"charged"* and *"paid"* operate at different points in the tax event: the former concerns the imposition and quantification of liability, while the latter specifically concerns the discharge of that liability. Adding onto that, the statute mandates that both of the aforementioned points in the tax event occur *"in the same manner and at the same time"* as customs duty, thereby aligning the procedure and timing of import-stage sales tax with the customs process. The language here, by itself, does not eclipse the provisions of the Sales Tax Act and merge the same into the Customs Act; rather, it stipulates procedural parity and simultaneity at the point of import.

Second, by specifically incorporating *"collection, payment and enforcement including recovery"* in its language, Section 6(1) of the Sales Tax Act draws in customs provisions under the Customs Act that relate to these specified functions. What is of particular importance here is that *"enforcement including recovery"* indicates that insofar the charge and payment of sales tax for goods imported are concerned, the reference to Customs Act is not merely confined to the initial point of collection at the clearance gate, but extends to the suite of measures by which as assessed liability is pursued and realized thereafter. On an ordinary reading, provisions of the Customs Act that regulate post-clearance collection or recovery of an import-stage fiscal liability would, *prima facie*, fall within the scope of this limb.

And **finally**, one must appreciate that Section 6(1) of the Sales Tax Act contains an in-built qualifier for the Customs authorities to assume jurisdiction; i.e., *"where no specific provision exists in this Act"*. The effect of this clause is to preserve the primacy of any specific sales tax provision

that covers the same field. The first provision that comes to mind in this context is Section 11 of the Sales Tax Act, which, prior to its omission by the Finance Act, 2024, broadly empowered the Inland Revenue to recover tax not levied, short-levied, or erroneously refunded, but did not specifically extend to cases arising out of clearances at the import stage.

With its omission by the Finance Act, 2024, Section 11 has been replaced by a compartmentalized scheme, comprising Sections 11D to 11G of the Sales Tax Act. The closest analogue to the former Section 11 is Section 11E, which continues to employ broad language regarding the recovery of tax, but even that provision does not specifically address the present circumstances of recovery at the import stage, where an exemption has been wrongly allowed at clearance. Thus, none of the newly inserted provisions provides a parallel authority for recovery in such cases. By contrast, Section 6(1), especially by the virtue of the amendment made by the Finance Act, 2015, specifically and unequivocally addresses this eventuality: it imports the Customs Act machinery for the collection, payment, enforcement, including recovery, of tax at the import-stage. Thus, Section 6(1), being specific in nature and expressly allocating jurisdiction to Customs, is therefore definitive and now stands as the sole operative provision governing this field.

17. Read as a whole, therefore, Section 6(1) of the Sales Tax Act, now establishes a definitive scheme: it aligns the charge and payment of import-stage sales tax with customs duty, incorporates the collection, enforcement and recovery machinery provided under the Customs Act, as the sole operative channel in the absence of any parallel provision in the Sales Tax Act itself.

18. Having regard to the foregoing analysis, it may be clarified that the various Finance Act amendments made to the Customs Act and the Sales Tax Act, as discussed above, operate to designate Customs as the forum for recovery, and thus are purely procedural in nature. They do not create any new liability, nor do they curtail any substantive defence available to the taxpayer, but merely regulate the procedural channel through which an existing obligation is to be enforced. As such, since they do not affect any vested right, it is a settled principle that such provisions apply retrospectively unless expressly excluded.

Income Tax Ordinance

19. It is next appropriate to turn to the Income Tax Ordinance, and in particular Section 148, which regulates the collection of advance income tax at the import stage. The relevant part provides:

148. Imports.— (5) The advance tax under this section shall be collected in the same manner and at the same time as customs duty payable under the Customs Act, 1969 (IV of 1969).

(6) The provisions of the Customs Act, 1969 (IV of 1969), shall, so far as they relate to the collection of customs duty, apply to the collection of tax under this section."

(emphasis provided)

The above provisions in essence provide: (i) a direction in subsection (5) that advance income tax at the import be collected "*in the same manner and at the same time*" as customs duty under the Customs Act; and (ii) the incorporation under subsection (6) of the provisions of the Customs Act "*so far as they relate to the collection of customs duty.*"

Where Section 148(5) of the Income Tax Ordinance provides that advance income tax is to be collected at the same manner and at the same time, as customs duty, it places import-stage income tax on the same procedural footing as customs duty, both in terms of timing and process. The liability arises under the Income Tax Ordinance, but its point of collection is

deliberately synchronised with customs clearance, so that the fiscal obligation is discharged together with customs duty at the clearance gate. Adding to this, Section 148(6), expressly applies the provisions of the Customs Act *"so far as they relate to the collection customs duty"* to the collection of advance income tax. The incorporation is, therefore, functional and limited in scope: it does not displace the Income Tax Ordinance as the charging statute, but it borrows the customs machinery, insofar as necessary, to operationalise collection at the point of import. As with Section 6(1) of the Sales Tax Act, this includes those provisions of the Customs Act, which deal with post-clearance collection, where a liability at import has not been fully discharged.

20. Read together, subsections (5) and (6) of Section 148 of the Income Tax Act envisages and establish a scheme, whereby advance income tax at the import stage is to be assessed and collected, side by side with customs duty, through the same processes and at the same time, with the Customs Act, providing the procedural machinery for such collection.

Conclusion:

21. On the basis of the foregoing, it is important to note that the provisions of Section 32 of the Customs Act and Section 6(1) of the Sales Tax Act, as presently worded, contain the language inserted by the Finance Acts of 2014 and 2015. These amendments are material because they reveal the legislative intent that prompted the inclusion of the terms *"taxes"* in Section 32 and *"including recovery"* in Section 6(1). Taken together with the subsequent omission of Section 11 of the Sales Tax Act by the Finance Act 2024, a clear trajectory emerges: Parliament has consciously moved away from a broad, catch-all recovery jurisdiction of Inland Revenue, and toward a coherent framework in which customs duty, sales tax, and advance

income tax, all levied at the point of import, are administered and, where necessary, recovered through the machinery of the Customs Act. To disregard the significance of these insertions and omissions would be to overlook the deliberate coherence Parliament has sought to create in the scheme of import-stage taxation.

22. Accordingly, this Court is satisfied that under the statutory framework comprising the Customs Act, the Sales Tax Act, and the Income Tax Ordinance, as read in light of the various Finance Act amendments discussed above, the Customs authorities do retain jurisdiction to recover import-stage sales tax and advance income tax, even where short-levy is discovered after clearance of goods.

23. It bears emphasis that customs duty, sales tax, and advance income tax at the import stage are all charged and collected, as part of the same transactional event. Where, owing to a misapplied exemption or other lapse, the full liability is not realized at that stage, it is consistent with both logic and statutory design that the Customs authorities should be empowered to address and recover the deficiency. To hold otherwise would fracture the statutory scheme, dispersing jurisdiction between different authorities in respect of levies that are assessed and collected together at the border, thereby defeating the coherence that the Parliament sought to ensure through the scheme of cross-reference and the amendments already noted.

24. For the reasons recorded above, it is declared that the Customs authorities have jurisdiction, within the statutory limitation, to recover import-stage sales tax and advance income tax that was not levied owing to a wrongly granted exemption, even if such short-levy is discovered after clearance of goods. The show-cause notices issued to the respondents are

accordingly restored for adjudication on their merits, in accordance with law.

25. Accordingly, all these petitions are converted into appeals and allowed in the above terms and the impugned judgments passed by the High Court are set aside.

Chief Justice

With due deference, I differ. My note is attached.

Judge

Judge

Approved for Reporting

ORDER OF THE COURT

By a majority of 2 to 1 (Justice Muhammad Shafi Siddiqui, J. dissenting) all these petitions are converted into appeals and allowed in the terms noted in the majority judgment and the impugned judgments passed by the High Court are set aside.

Chief Justice

Judge

Judge

Announced in open Court on 5th September, 2025 at Islamabad.

Chief Justice

Muhammad Shafi Siddiqui, J. I have had the privilege to going through the judgment authored by my learned brother, Mr. Justice Yahya Afridi, Hon'ble Chief Justice. However, with all the humility at my command I am not in agreement with the conclusion drawn therein and hence record my separate disagreement (reasoning and conclusion) in the following terms:

2. The present bunch of civil petitions for leave to appeal has been filed by the petitioner-Department of Customs against common impugned orders/judgments passed by the High Court of Sindh, Karachi; whereas, 3 Civil Misc. Applications have been filed by the respondent-Nestle Pakistan Ltd. in 3 of the civil petitions for leave to appeal, mainly on the ground that the petitioner-Department has no *locus standi* to file the same before this Court, which may have overall effect on the proceedings.

Precise facts

3. For the sake of brevity and in order to decide common legal issues, Civil Petition No.70-K of 2023 is being treated as leading petition as respondent No.1-M/s Nestle Pakistan Limited (hereinafter referred to as '**the Importer**') was the lead petitioner before the High Court and the main judgment/order was passed in its petition from which the present petitions for leave to appeal arise.

4. The respondent No. 1/Importer is a public limited company engaged in the manufacturing and sale of food items, beverages and dairy products (goods), and it has a manufacturing facility at Port Qasim and also sales offices within the province of Sindh as claimed and not disputed. The raw material imported by the respondent/Importer claimed to have qualified for exemption as embodied in the Sales Tax Act, 1990 ('**the Act**') and Income Tax Ordinance, 2001 ('**the Ordinance**'). The consignments of the subject civil petitions were declared under the goods declaration ('**GDs**') on the strength of Item No.26 of the Sixth Schedule of the Act and the said GDs were processed presumably upon proper application of mind by the officials of the Customs Department and in consequence thereof, the benefit was allowed and the said consignments were cleared upon payment of "applicable" taxes, duties and charges.

5. On post clearance of the goods, the Director, Directorate of Post Clearance Audit, Karachi, however, in view of Audit Observations, observed that consignments of the Importer Company did not fall within the claimed

exemption, therefore, no exemption could have been claimed by the Importer Company at the relevant time. In this regard an explanation was sought by the petitioner-Department from the importer Company, however, the Importer requested for extension of time to submit response. The petitioner-Department declined the said request and in consequence thereof, forwarded the contravention report along with the said audit observations to the Collector, Collectorate of Customs (Adjudication-I), Customs House, Karachi (**respondent No. 4** herein).

6. On the basis of the said contravention report, respondent No. 4 issued Show Cause Notice dated 03.08.2017 (**Impugned Notice**) to the importer Company on assumption of jurisdiction as to why proceedings may not be initiated against it for violation of section 34 of the Act and section 148 of the Ordinance punishable under section 156(1)(14) of the Customs Act, 1969; section 33(5) of the Act and sections 148 and 182 of the Ordinance; section 7A of the Act read with Chapter X of the Sales Tax Special Procedure Rules, 2007. The said Impugned Notice also required the Company to pay the alleged evaded sales tax amounting to Rs. 36,730,598/- and corresponding income tax of Rs.2,132,598/- total Rs.38,863,093/- for having mis-declared the imported goods to claim exemption.

7. Aggrieved of the Impugned Notice, the Company filed Constitution Petition No. D-5482 of 2017 before the High Court of Sindh, Karachi. In the said Constitution Petition the Company also raised objections to the authority exercised by the petitioner-Department, which include preparation of audit observation, contravention report and its submissions to the respondent No.4 in terms of certain provisions of the customs laws. The Constitution Petition filed by the Company along with others, involving common question of law, were allowed by the High Court *vide* impugned short order dated 15.11.2022 in the following terms:

"For reasons to be recorded later on these petitions are allowed to the extent that the officers of Collectorate of Customs (Adjudication) have no jurisdiction to recover or adjudicate any short levy / recovery of sales tax and income tax once the imported consignments have been assessed to duty and taxes in terms of section 80 of the Customs Act, 1969 and are released / cleared from Customs. The impugned show cause notices, only to this extent are held to be issued without lawful authority and jurisdiction and are hereby set-aside; however, the proceedings, if any, in respect of short levied sales tax and income tax can be initiated by the Officers of Inland Revenue

Department, strictly in accordance with law. Office to place a copy of this order in the connected petitions as above."

8. The said short order was then followed by detailed reasoning dated 29.12.2022. A common question of law as to the authority of petitioner and/or Customs Department regarding adjudication of short paid sales tax and income tax post clearance of goods was adjudged against the Custom Department.

9. We have heard M/s Dr. Farhat Zafar, Ch. Muhammad Zafar Iqbal, Mr. Zahid F. Ebrahim and Masooda Siraj, learned counsel representing the petitioners, M/s Muhammad Afzal Awan, Hyder Ali Khan, Umair Majeed Malik, Syed Asghar Hussain Sabzwari, Dr. Shah Nawaz, Aziz ul Haque Nishtar, Sultan Mazhar Sher Khan, Imtiaz Rashid Siddiqui and Shehryar Kasuri representing the respondents. We have also heard Ch. Muhammad Javed, Chief Legal Custom, Federal Board of Revenue.

10. I would first take up the three Civil Misc. Applications filed by Nestle Pakistan Limited with regard to the maintainability of civil petitions for leave to appeal filed by the Directorate of Post Clearance Audit-petitioner.

11. The primary objection of the respondents is that petitioner being Director of post clearance audit is not an aggrieved person, as neither personal loss to the department is explained nor any financial loss to individual officers is disclosed.

12. In response to the said objections, the petitioner-Directorate of Post Clearance Audit has filed CMA No. 11009 of 2024 disclosing that the titled petitions have been filed wherein petitioners have been arrayed as respondents before the High Court of Sindh wherein the exercise of powers under the relevant law, as exercised by them was challenged. Those include:

- (i) The Collector of Customs, through the Additional Collector of Customs, Model Customs Collectorate of Appraisement (East), Karachi;
- (ii) Collector of Customs, Model Customs Collectorate, Appraisement & Facilitation, Karachi and others;
- (iii) Collector of Customs, (Adjudication-1), Karachi;
- (iv) Assistant Collector of Customs, Karachi;
- (v) Deputy Collector of Customs, Karachi;

- (vi) Director, Directorate General, Intelligence and Investigation (Customs), Karachi;
- (vii) The Directorate of Post Clearance Audit, Federal Board of Revenue, Islamabad; and
- (viii) The Directorate of Post Clearance Audit, through its Director General, Federal Board of Revenue, Islamabad;
 - (a) The Director, Directorate of Post Clearance Audit, Karachi;
 - (b) The Collectorate of Customs (Appraisalment), Karachi;
 - (c) The Federation of Pakistan, through Secretary Revenue Division, Islamabad; and
 - (d) Federal Board of Revenue, through its Chairman, Islamabad.

Serial No. (viii) (a) to (d) are the petitioners in Civil Petition No. 609/2023.

13. I have noticed that, in response to the show cause notices discussed above, the constitution petitions have been filed by the respondents accusing the petitioners to have transgressed from their statutory frame. To be an aggrieved person/party, the petitioners were not only required to show financial losses for their department or themselves but they could also be aggrieved if it/they "claimed" that they were/are under statutory obligation to perform their duty, which is being denied. The ultimate conclusion of this statutory mandate, however, is irrespective of the present stance of the petitioners presenting their case that they have been deprived to perform their statutory obligations and that relevant provisions of the law, as could be interpreted by courts, could also affect their statutory rights.

14. Notwithstanding the conclusion of these CPLAs, petitioners were not satisfied with the interpretation given in the impugned order, the petitioners were aggrieved in the above terms as they sought interpretation of section 6 of the Sales Tax Act, 1990, section 148 of the Income Tax Ordinance, 2001 and sections 32 and 179 of the Customs Act, 1969, where under petitioners claimed jurisdiction and which have enabled them to issue notices and adjudicate, in view of amendments carried out. Civil Petition No.609/2023, however, additionally includes the Federation of Pakistan which was filed through the Secretary, Revenue Division, Islamabad as well as the Federal Board of Revenue. I would therefore overrule these objections and prefer to decide the cases on merits.

Merit

15. These three statutes (under discussion) are special laws that provide independent jurisdictions, wherein chargeability, assessment, and recovery are treated as separate and distinct functions. The case presented by the petitioners is that prior to aforesaid amendments, customs were entrusted with parallel jurisdiction to collection of limited taxes only at the import stage. Such powers did not include any authority to assess, adjudicate and recover income tax and sales tax, post clearance of consignments, hence the amendments were made with such intention and should be read accordingly. It is the petitioner's case that after these amendments, powers have now been bestowed on petitioners to assess, adjudicate and recover the short paid/unpaid Income Tax, Sales Tax/Excise etc. These amendments (as claimed) confer jurisdiction on customs authorities even after the clearance of goods after the import stage, whereas the respondents argued that the amendments did not change the legal position regarding post-clearance adjudication/assessment and/or recovery.

16. The petitioner's counsel rested his case on the meaningful interpretation of the amendments carried out by Finance Act in between 2012 to 2015 in the relevant statutes. I would now discuss the amendments inserted in the relevant provisions of Customs Act, Income Tax Ordinance and Sales Tax Act etc.

17. It is now with current amendments of 2012, 2014 and 2015 etc., that the Law is yet again tested, if the intention of the legislature is apparent and effective and/or has misfired on account of absence of delegation of special jurisdiction enjoyed under "separate statute".

18. Special laws i.e. Sales Tax Act and Income Tax Ordinance have conferred its jurisdiction (to be adjudged to what extent) in terms of Section 148 of the Ordinance and Section 6 of the Act. Section 148 (5) of the Ordinance only confers jurisdiction to the extent as under:

148. Imports.- (1) *The collector of Customs shall collect advance tax from every importer of goods on the value of the goods at the rate of specified in Part II of the First Schedule [in respect of goods classified in Parts I to III of the Twelfth Schedule]*

[Provided that the Board may, by a notification in the official Gazette, add in the Twelfth Schedule any entry thereto or omit any entry therefrom or amend any entry therein:

Provided further that in case of goods classified under Part III of the Twelfth Schedule which are used both as raw material and finished goods, the Board may, by notification in the official Gazette, specify that goods imported by a person or class of persons as raw material for its own use shall be treated as classified under Part II of the Twelfth Schedule, subject to such conditions and procedure as may be prescribed.]¹

(2) ...²

[(2A) Notwithstanding omission of sub-section (2), any notification issued under the said sub-section and for the time being in force, shall continue to remain in force, unless [amended or] rescinded by the Board through notification in the official Gazette.]³

[(3) ...

(4) ...]⁴

[(4A) ...]⁵

(5) Advance tax shall be collected in the same manner and at the same time as the customs-duty payable in respect of the import or, if the goods are exempt from customs-duty, at the time customs-duty would be payable if the goods were dutiable.

(6) The provisions of the Customs Act, 1969 (IV of 1969), in so far as relevant, shall apply to the collection of tax under this Act.

*⁶[(7) The tax [required to be]⁷ collected under this section shall be [minimum]⁸ tax [***]⁹ on the income of the importer arising from the import subject to sub-section (1) and this sub-section shall not apply in the case of import of [goods on which tax is required to be collected under this section]¹⁰ [***]¹¹ by an industrial undertaking for its own use.] [***]¹²*

¹ Inserted by Finance Act, 2020 (XIX) of 2020 (Assented on: 30th June, 2020).

² Sub-section (2) omitted by the Finance Act, 2015 (V of 2015), (Assented on: 29th June, 2015).

³ Sub-section (2A) inserted by the Finance Act, 2015 (V of 2015), (Assented on: 29th June, 2015).

⁴ Sub-section (3) and (4) omitted by the Finance Act, 2007 (IV of 2007), (Assented on: 30th June, 2007).

⁵ Sub-section (4-A) omitted by the Finance Act, 2008 (I of 2008) (Assented on: 26th June, 2008).

⁶ Sub-section (7) substituted by the Finance Act, 2006 (III of 2006), (Assented on: 30th June, 2006).

⁷ The words inserted by the Finance Act, 2012 (XVII of 2012), (Assented on: 26th June, 2012).

⁸ Substituted for the word "a final" by the Finance, 2019 (V of 2019), (Assented on: 30th June, 2019).

⁹ The expression "[except as provided under sub-section (8)]" omitted by the Finance Act, 2019 (V of 2019), (Assented on: 30th June, 2019).

¹⁰ The expression inserted by the Finance Act, 2020 (XIX) of 2020), (Assented on: 30th June, 2020).

¹¹ The expression "at the rate of 1% or 2% omitted by the Finance Act, 2022 (XIII of 2022), (Assented on: 30th June, 2022).

¹² The hyphen and clauses (a), (c) (d) & €omitted by the Finance Act, 2020 (XIX) of 2020), (Assented on: 30th June, 2020).

[(7A) Notwithstanding anything contained in sub-section (7), the tax required to be collected under this section shall be minimum tax on the income every person arising from import of following goods:

- (i) edible oil;*
- (ii) packaging material;*
- (iii) paper and paper board; or*
- (iv) plastics;*

Provided that the Board with the approval of Minister in-charge may, by a notification in the official Gazette, add any entry thereto or omit any entry therefrom or amend any entry therein this sub-section.]¹³

[(8) ...]¹⁴

[(8A) ...]¹⁵

(9) In this section:

*“Collector of Customs” means the person appointed Collector of Customs under section 3 of the Customs Act, 1969 (IV of 1969, and includes a Deputy Collector of Customs, and Additional Collector of Customs, or an officer of customs appointed as such under the aforesaid section; [***]¹⁶*

[Value of goods means:

- (a) in case of goods chargeable to tax at retail price under the Third Schedule of the Sales Tax Act, 1990, the retail price of such goods increased by sales tax payable in respect of the import and taxable supply of the goods; and*
- (b) in case of all other goods; the value of the goods as determined under the Customs Act, 1969 (IV of 1969), as if the goods were subject to ad valorem duty and sales tax, if any, payable in respect of the import of goods.]¹⁷*

19. No such amendment was carried out in sub-section (5) of section 148 when relevant amendments were made in other statutes in 2012, 2014 and 2015. This has gone unchanged which inundated customs to collect advance tax in the same manner and at the same time as the customs duty

¹³ Sub-section (7) inserted by the Finance Act, 2022 (XIII of 2022), (Assented on: 30th June, 2022).

¹⁴ Sub-section (8) omitted by the Finance Act, 2020 (XIX) of 2020), (Assented on: 30th June, 2020).

¹⁵ Sub-section (8A) omitted by the Finance Act, 2020 (XIX) of 2020), (Assented on: 30th June, 2020).

¹⁶ The word “and” omitted by the Finance Act, 2004 (II of 2004), (Assented on: 30th June, 2004).

¹⁷ Substituted for the expression “[value of goods means the value of the goods as determined under the Customs Act, 1969 (IV of 1969), as if the goods were subject to ad valorem duty increased by customs-duty, federal excise duty and sales tax, if any, payable in respect of the import of the goods]” by the Finance Act, 2020 (XIX) of 2020), (Assented on: 30th June, 2020).

payable. The word collection alone has its limitations and significance. This does not bestow any powers, upon customs to adjudicate, in respect of unpaid/non-paid taxes, post clearance of goods.

20. Similarly, section 6 of the Act confer jurisdiction as under:

6. Time and manner of payment. -

*(1) The tax in respect of goods imported into Pakistan shall be charged and paid in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969 (and the provisions of the said Act [including section 31A thereof], shall, so far as they relate to collection, payment and enforcement [**including recovery**]¹⁸ of tax under this Act on such goods where no specific provision exists in this Act, apply.*

[(1A) Notwithstanding anything contained in any other law for the time being in force, including but not limited to the Protection of Economic Reforms Act, 1992 (XII of 1992), and notwithstanding any decision or judgment of any forum, authority or court whether passed, before or after the promulgation of the Finance Act, 1998 (III of 1998), the provisions of section 31-A of the Customs Act, 1969 (IV of 1969), referred to in sub-section (1) shall be incorporated in and shall be deemed to have always been so incorporated in this Act and no person shall be entitled to any exemption from or adjustment of or refund of tax on account of the absence of such a provision in this Act, or in consequence of any decision or judgment of any forum, authority or court passed on that ground or on the basis of the doctrine of promissory estoppel or on account of any promise or commitment made or understanding given whether in writing or otherwise, by any government department or authority.]¹⁹

21. Customs duty is payable at the time of import and nothing is altered in this sub-section as well, except that such duty is "recoverable". This amendment also does not provide jurisdiction to adjudicate which could only emanate from main statute, where under sales tax is recovered.

22. Section 6 of the Act has conferred more restricted jurisdiction than section 148 of the Ordinance as it capped the powers only to the extent where no specific provision exists in the Act. It cuts the petitioner's arguments both ways. This is meant for the event of import stage, as only for import stage, a similar/specific provision is not available in the respective statutes, i.e., Act and Ordinance, however, there is no cavil to the proposition that both statutes have an independent hierarchy to recover

¹⁸ The word inserted by the Finance Act, 2015 (V of 2015), (Assented on: 29th June, 2015).

¹⁹ Sub-section (1A) inserted by the Sales Tax (Amendment) Ordinance, 2002 (XXV of 2002), (Made on: 6th June 2002).

short paid/unpaid taxes not recovered earlier or at the import stage. This phrase cannot be held meaningless. If this also means that unpaid tax under Sales Tax Act could also be included post clearance of goods for adjudication/assessment and recovery, then the phrase "where no specific provision exists in this Act" would be ridiculed.

23. Indeed, the jurisdiction can be conferred by one Special Law to another but presently it has its contour. Special Law confers jurisdiction to another but special law cannot, on its own, assume jurisdiction of another special law. The Special Law such as Sales Tax Act/Income Tax Ordinance conferred jurisdiction of recovery only at the time of clearance of goods (import stage). The customs law may have discussed about adjudication of unpaid/non-paid taxes but this is not meant for post clearance unless jurisdiction is conveyed from one Special Law to another Special Law. Unless this bridge is made available, the intention of legislature cannot be presumed to have passed/extended this jurisdiction too. We are not exercising jurisdiction to fill up legislative flaws in the amendments.

24. The phrase "Including recovery" which has been inserted by Finance Act 2015 in Sales Tax Act section 6 is not meaningless either. If on the scrutiny, upon post clearance security of goods any error is surfaced, it must immediately be referred to the Officer of Inland Revenue, who may then exercise powers under the relevant Statute, which has its own machinery to assess and adjudicate. In case the short paid is assessed and adjudicated by officers of Inland Revenue, it can be entrusted to customs for "recovery" from consignments being imported, based on the assessment and adjudication made by the concerned Officer of Inland Revenue under the relevant statutes.

25. I would now see the effect of amendment carried out in the relevant provisions of section 32 of Customs Act, 1969 which claimed to have assumed jurisdiction of another special law, in totality, by virtue of amendment.

32. (Untrue) statement, error, etc.- *(1) if any person, in connection with any matter of customs,-*

(a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to an officer of customs any declaration, notice, certificate or other document whatsoever, or

- (b) makes any statement in answer to any question put to him by an officer of customs which he is required by or under this Act to answer, [or]
- (c) submits any false statement or document electronically through automated clearance system regarding any matter of Customs,]

[knowing or having reason to believe that such document or statement is false] in any material particular, he shall be guilty of an offence under this section.

(2) Where, by reason of any such document or statement as aforesaid or by reason of some collusion, any duty [, taxes]²⁰ or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within [five] years of the relevant date, requiring him to show cause why he should not pay the amount specified in the notice.

(3) Where, by reason of any inadvertence, error or misconstruction, any duty [, taxes]²¹ or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within [three years] of the relevant date requiring him to show cause why he should not pay the amount specified in the notice [:].

...

...

[(3A)] Notwithstanding anything contained in subsection (3), where any duty [, taxes]²² or charge has not been levied or has been short-levied or has been erroneously refunded and this is discovered as a result of an audit or examination of an importer's [or exporter's]²³ accounts or by any means other than an examination of the documents provided by the importer [or exporter]²⁴ at the time the goods were imported [or exported]²⁵, the person liable to pay any amount on that account shall be served with a notice within [five] years of the relevant date requiring him to show cause why he should not pay the amount specified in the notice [:].]²⁶

[Provided that if the recoverable amount in a case is less than [twenty thousand]²⁷ rupees, the Customs authorities shall not initiate the aforesaid action.]²⁸

²⁰ The comma and word inserted by the Finance Act, 2014 (IX of 2014), (Assented on: 25th June, 2014).

²¹ The comma and word inserted by the Finance Act, 2014 (IX of 2014), (Assented on: 25th June, 2014).

²² The comma and word inserted by the Finance Act, 2014 (IX of 2014), (Assented on: 25th June, 2014).

²³ The words inserted by the Finance Act, 2019 (V of 2019), (Assented on: 30th June, 2019).

²⁴ The words inserted by the Finance Act, 2019 (V of 2019), (Assented on: 30th June, 2019).

²⁵ The words inserted by the Finance Act, 2019 (V of 2019), (Assented on: 30th June, 2019).

²⁶ Substituted for the full stop by the Finance Act, 2005 (VII of 2005), (Assented on: 29th June, 2005).

²⁷ Substituted for the word "one hundred" by the Finance Act, 2021 (VIII of 2021), (Assented on: 30th June, 2021).

²⁸ Proviso added by the Finance Act, 2005 (VII of 2005), (Assented on: 29th June, 2005).

(4) ...

(5) ...

26. The word "taxes" was added via Finance Act, 2014. This amendment does not discuss the possibility of adjudication. This only relates to the issuance of notice to understand if the amount of duty/taxes/charges has not been levied or has been short-levied or has been erroneously refunded or by way of inadvertence error or misconstruction. Only on reaching such an understanding should the matter be referred to Inland Revenue for further adjudication, as short levy or no levy as for occasions discussed in sub-section (2) and (3) at the import stage, was the customs officer's duty/liability, and this is to keep their statutory performance clear.

27. The Directorate of Post Clearance Audit forms a part of the Customs department/the Federal Board of Revenue. The entire ambit of its functions, powers and jurisdiction has been expressed through various statutory instruments, including inter alia SRO No.886(1)/2012, SRO No. 500(I)/2009 and Customs General Order No. 03/2009.

28. None of the above-mentioned statutory instruments vest in the petitioner-Directorate or its officers, any jurisdiction with reference to the Sales Tax Act or the Income Tax Ordinance.

29. Similarly, no conferment of powers and/or functions has been done viz. the Directorate in relation to the above statutes either.

30. Section 179 of the Customs Act which deals with powers of adjudication attempted to cover the recovery of taxes not levied/short levied, etc. but this is the machinery showing modalities and operations of officers of Customs without "actual" conferment of powers from the Special Law which has its own machinery and only in absence of such forums in relevant Special Law, on special conferment of jurisdiction, the machinery of 179 could be made effective, provided section 6(1) may also be revisited by legislature which then would show the intention. Missing link of conferring jurisdiction thus cannot be read into, as the legislature was conscious of such special jurisdictions within Special Laws. It is, however, very relevant to mention and notwithstanding above analysis, the impugned notice does not reflect sections 32/179. Section 179, for the purpose of confiscation of goods or recovery of duty or other taxes discuss the powers of customs

officers in terms of amount of duties, but this itself does not assume jurisdiction of another statute, nor it can, being a Special Law for customs. The missing link is about conferring the jurisdiction from main statutes. I agree with the treatment given to sections 132 and 179 of Customs Act in the impugned judgment.

31. Despite the addition of the word 'tax/taxes' in provisions of the Customs Act including *inter alia* sections 32 and 179 the said insertion does not sink with adjudication until and unless the Customs department and the officials thereof are "**conferred**" or "**empowered**" and/ or "**vested**" with the required jurisdiction to **adjudicate** and then **recover** the alleged escaped **taxes** post clearance of goods, as per the terms of section 148 of the Income Tax Ordinance, 2001 and/ or section 6 of the Sales Tax Act, 1990, then to be read with sections 32 and 179 of the Customs Act.

32. In continuation to the above, and despite the proposition that redundancy may not be attributed to the legislature, it is of paramount importance that there be no intendment/presumption viz. in a taxing statute either; no words may be imported therein. The legislature, in making the above-referred amendments to the Customs Act, has not conferred upon the department any "jurisdiction to adjudicate" once the goods have exited the import stage. The legislature knows it better that the conferment of jurisdiction for adjudication has to be specific, and they have not done it purposely.

33. Nothing restricted the legislature to have clearly bestowed the jurisdiction of one Special Law to another Special Law (post clearance of goods). Once the goods in question obtain clearance from the relevant authorities and exit the Port, the import stage stands concluded and with it the jurisdiction of the Customs authorities for subject taxes. Thereafter, the jurisdiction to conduct any assessment/adjudication of short levy of said taxes on imports vests back with the officers of Inland Revenue, who have been duly empowered by the Sales Tax Act and/or the Income Tax Ordinance and the statutory notifications passed thereunder.

34. Although any short levy/short payment of "customs duty" may be adjudicated by the Customs department in line with the provisions of the Customs Act, the same cannot be done for Sales Tax Act/Income Tax Ordinance.

35. Indeed, that provisions of Customs Act in respect of calculation, payment and recovery of sales tax would only be applicable if no specific provisions were provided for the same in the relevant statutes. Despite this settled principle the recent amendments were not made to overcome such understanding of law hence intention is obvious that no shifting of jurisdiction post clearance of goods since similar provisions are available in the relevant laws and no other view is possible.

Conclusion

36. Notwithstanding the amendments discussed and their effects, I conclude that such amendments cannot be interpreted to have taken over the special jurisdiction under relevant provisions of law post clearance of goods and the parallel jurisdiction conferred upon custom department was only to the extent of import stage which is contemplated in the Special Laws.

37. With this understanding of law, the present CPLAs together with the listed CMAs are dismissed and leave to appeal is refused.

Judge

Approved for Reporting
[**]