**JUDGMENT SHEET**
**ISLAMABAD HIGH COURT, ISLAMABAD,**
**JUDICIAL DEPARTMENT**

**Criminal Appeal No. 21 of 2022**

Sharjeel Javed and others.

*Versus*

The State

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| Appellants by: | Hafiz Munawar Iqbal, Advocate. |
| Respondents by: | Barrister Atif Rahim Burki, Advocate for FBR.<br>Mr. Muhammad Nauman, Inspector FBR. |
| Date of Hearing: | 14.5.2024. |

**MOHSIN AKHTAR KAYANI, J**: 3. Through this criminal appeal the appellants have assailed order dated 22.12.2021, passed by the court of learned Judge, Special Court (Customs, Taxation & Anti-Smuggling), Rawalpindi / ICT, in complaint case No.5 of 2020 dated 27.08.2020 under section 21 (2) of the Anti-Money Laundering Act, 2010, whereby, application under section 265-K Cr.P.C. has been dismissed.

2. Brief facts referred in this case are that the investigation officer directorate of intelligence and investigation IR, has initiated proceedings by issuing notice dated 03.09.2020 under section 9 (1) of the Anti-Money Laundering Act, 2010, against the petitioners to the fact that he had reasons to believe that petitioners are involved in proceeds of crime as envisaged in section 2 (q) of the Anti-Money Laundering Act, 2010, read with section 192/192-A of the Income Tax Ordinance, 2001, therefore, powers contained under section 8 of Anti-Money Laundering Act, 2010 have been invoked. The complaint was

filed on the basis of allegations contained in notice dated 30.09.2020 which are as under:

> *".....*
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> *2. Enquiry under Income Tax Ordinance, 2001 was carried out in your (Sharjeel Javed) case and forwarded vide C.No. 728 dated 14-09-2017 to Regional Tax Office, Islamabad whereby numerous observations were pointed out. The Regional Tax Office, Islamabad, based on the foregoing enquiry, took the matter further and passed assessment orders for Tax Years 2012 to 2016 creating tax demand as under-*
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> |---|---|
> | *2012* | *Rs.20,464,156/-* |
> | *2013* | *Rs.18,227,387/-* |
> | *2014* | *Rs.186,502,941/-* |
> | *2015* | *Rs.184,250,832/-* |
> | *2016* | *Rs.169,201,471/-* |
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> *3. You, Mr. Sharjeel Javed, preferred to file an appeal No. 530 to 534 dated 27-02-2018 against the assessment orders with Commissioner Inland Revenue, Appeals-II, Islamabad. The learned CIR (Appeals) disposed off the matter in favour of the Department on 16-05-2018 by upholding the assessment orders. Being aggrieved with the decision of the learned CIR(Appeals), you preferred to file appeal before a higher forum the Appellate Tribunal Inland Revenue, Special Division Bench, Islamabad vide ITA No.1090(IB)/2018 to 1094(IB)/2018. The learned ATIR, Islamabad passed order on 18-03-2019 whereby the learned ATIR, Islamabad noted the following points:*
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> > *"The appellant/taxpayer has taken the stance that he was not confronted properly. It appears prima facie that no evidence of a money-trail could be established by the appellant as to the source of investments made in the purchase/sale of immovable property. Further the proof of foreign exchange remittances has not been adduced. The AR's plea of Qarz-e-Hasna is also not convincing on a wide scale unless corroborated by documentary evidence. The factual controversies have not been resolved at the*

*assessment stage. In light of the aforesaid discussion we deem it to be in the interests of justice to vacate the orders of both the authorities below and the case is remanded to the assessing authority with the direction to re-examine the issues involved".*

*4. Being aggrieved with the order of the learned ATIR, Islamabad, you Mr. Sharjeel Javed filed Reference Application u/s 133 of the Income Tax Ordinance, 2001 before the Honorable Islamabad High Court, Islamabad vide ITR No. 24/2019 to 28/2019. The Honorable Court after hearing the case held that; "the orders impugned are not maintainable as there are no findings on question of law as well as on foots" and therefore dismissed the aforesaid Income Tax References in limine.*

*5. Now, under the circumstances penned down above, orders passed under section 122 of the Income Tax Ordinance, 2001 by the respected assessing officer on 06-02-2018 has been vacated by the learned ATIR while the order of the learned ATIR has not been quashed by the Honorable Islamabad High Court. Thus, the issues pointed out in the investigation report dated 14-09-2017 are to be re-examined by the concerned RTO. The assessing Officer passed order vide DCR No.01/51 dated 30-06-2020 u/s 122/124 of the Income Tax Ordinance, 2001 creating a tax demand of Rs.158,948,288/- which comes under the purview of AML Act, 2010. However offence of Money Laundering arising from tax evasion being jurisdiction of this Office are taken up here in with prior permission of the Honorable Court of Special Judge (Customs, Taxation & Anti-Smuggling), Rawalpindi. Therefore, you are directed to furnish written reply along with documentary evidences with regard to the following observations."*

3. In response to the said notice reply was filed with the contention that tax authorities have no jurisdiction to invoke section 192/192-A of Income Tax Ordinance, 2001, read with provisions of Anti-Money

Laundering Act, 2010, against the petitioners for tax evasion pertaining to tax year 2014, but the said request was not considered by the investigation officer and accounts as well as properties stands attached vide order dated 27.08.2020, whereafter, petitioner filed writ petition challenging the validity of the titled complaint vide writ petition No.2834/2020, however, the same was dismissed vide order dated 29.03.2021 by referring alternate remedy in terms of 265-K Cr.P.C. and the trial court while hearing the application under section 265-K Cr.P.C. dismissed the same through impugned order dated 22.12.2021 with the following observation:

> *"Perusal of record reveals that instant complaint has been filed by the complainant against the present accused/petitioners to evade the income tax and as per complaint this period is (01-07-2013 to 30-06-2018 meaning thereby the case of the prosecution is prima facie based on year 2014 and also pertaining to the further years up to 2018. It is pertinent to mention here that while framing the charge Court considered the complaint, statement of witnesses u/s 161 Cr.P.C. recovery memos and other attached documents and after the perusing the aforementioned report, statement of witnesses and other related documents attached with the complaint, in my humble view prima facie material is available on the record from which the charge against accused/ petitioners can be framed for their commission of predicate offence and after recording the evidence the plea of the accused/petitioners that matter is only pertained to the year 2014 can be determine. Accused/petitioners have every right to rebut the case of prosecution by producing the evidence in their defence. Therefore keeping in view the aforementioned circumstance the instant petition u/s 265-K Cr.P.C.*

> *filed by the accused/petitioners is hereby disposed of with the observation that they can rebut the prosecution case and produced evidence in their defence at proper stage of the trial. Now to come up for framing of the charge on 12-01-2022"*

In view of above order instant appeal has been filed.

4. Learned counsel for the petitioners contends that the order passed by learned Judge Special Court suffers from infirmities; that all criminal proceedings initiated on the basis of complaint pursuant to notice under section 9 (1) of the Anti-Money Laundering Act, 2010, by declaring that various bank accounts owned by the appellant are proceeds of crime, though, there is no evidence on record to *prima facie* declare any of the income referred in entire record is of proceeds of crime; that the provisions under sections 192/192-A of the Income Tax Ordinance, 2001, was made part of schedule of the Anti-Money Laundering Act, 2010, through SRO No.425(I)/2016, therefore, invoking of Anti-Money Laundering Act, 2010, pertaining to tax year 2014 is against the law.

5. Conversely, learned counsel for the State contends that contention raised by the appellant could only be settled after recording of evidence as instant application under section 265-K Cr.P.C. is premature and the trial court has rightly dismissed the same.

6. Arguments heard, record perused.

7. Perusal of record reveals that the appellants have challenged the very basis of the entire case which has been initiated on the basis of notice under section 9(1) of the Anti-Money Laundering Act, 2010, dated 03.09.2020, though the complaint under section 21(2) of the Anti-Money Laundering Act, 2010, was lodged against the appellants with

permission accorded by learned Special Court under section 8(1) of the Anti-Money Laundering Act, 2010, on 27.08.2020. As per stance of appellants the notice issued under section 9(1) of the Anti-Money Laundering Act, 2010, was replied but same was not in accordance with the required standard as per the stance of the investigation officer and requested information was not conveyed. The proceedings further reflects that W.P No.2834/2020 was filed before the Islamabad High Court which was dismissed by referring the alternate remedy in terms of section 265-K Cr.P.C. available to the appellants, therefore, as per the appellants claim they exercised the same remedy but same was not adhered to.

8. Before proceeding further it is necessary to consider procedure in terms of prosecution for the offence of tax evasion as to money laundering the Anti-Money Laundering Act, 2010, has been enacted with intent to "*provided for prevention of money laundering, combating financing of terrorism and forfeiture of property derived from, or involved in, money launder or financing of terrorism and for matters connected therewith or incidental thereto*". Such aspect gives complete outline of the law and clarifies the intention of the law maker, hence, this Court as well as the investigation officer is required to keep the intent of the law maker always in mind as highlighted in preamble of the law referred above. Before going into detail in depth analysis of the Anti-Money Laundering Act, 2010, it is necessary to go into the definition of money laundering in other foreign jurisdictions, whereby, Money laundering is the process of conversion of illicit money which comes out of the crime which is then intermixed with the licit money to make appear

legitimate, and it becomes very difficult to distinguish the legitimate money from the illegitimate one. The process has three main phases firstly, the black or soiled money must be sliced from the predicate offence; secondly, the money chain must be made mysterious or destroyed so as to avoid discovery; and lastly, the proceeds of such crime are re-injected into further business activity to launder it. United Nations Convention against Transnational Organized Crime (Palermo Convention) outlines money laundering as:

> *"the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade legal consequences of his/her action; the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime; the acquisition, possession or use of property, knowing at the time of receipt that such property is the proceeds of crime; participation in, association with or conspiracy to commit, attempt to commit and aiding and abetting, facilitating and counseling the commission of any of the offences established in accordance with this article.*

In UK, money laundering is an offence under section 327 of the Proceeds of Crime Act (2002) (POCA) which reads as under:

> *"A person commits an offence if he or she conceals, disguises, converts or transfers criminal property or removes it from England and Wales or Scotland or Northern Ireland; enters into or becomes concerned in an arrangement which he or she knows or suspects facilitates the acquisition, retention, use or control of*

*criminal property; acquires, uses or has possession of criminal property."*

In the context of USA, under section 1956 of US Code 18:

*"Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds specified unlawful activity: with the intent to promote the carrying on of specified unlawful activity; or with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Inland Revenue Code of 1986; or knowing that the transaction is designed in whole or in part to conceal or disguise the nature of, the location, the source, the ownership or the control of the proceeds of specified unlawful activity; or to avoid transaction reporting requirement under State of Federal Law."*

In Pakistan the definition of offence of money laundering provided in Section 3 of Anti-Money Laundering Act, 2010, which is reproduced as under:

*3. **Offence of money laundering**. A person shall be guilty of offence of money laundering, if the person:-*

*(a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime;*

*(b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime;*

*(c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or*

*(d) participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c).*

> ***Explanation-I***. *The knowledge, intent or purpose required as an element of an offence set forth in this section may be inferred from factual circumstances in accordance with the Qanun-e-Shahadat Order, 1984 (P.O. 10 of 1984).*
>
> ***Explanation II***. *For the purposes of proving an offence under this section, the conviction of an accused for the respective predicate offence shall not be required.*

All above-mentioned denotations, however, appear valid; centered on income, property, illicit proceeds and unlawful activities largely anchored to criminal aspects. Apparently, all of the above-mentioned definitions of money laundering almost cover any type of conduct with "proceeds of crime" falling within the range of "money laundering" and consequently made culpable.

9. Now, the next question is the property involved in money laundering is actually proceeds of crime or the property is made from the crime money, such question is to be determined by the trial court after recording evidence. For the prosecution of the offence of money laundering with reference to present case it is obligatory upon the prosecution to demonstrate that tax evasion and false verification under section 192 and 192A of Income Tax Ordinance 2001 (ITO) has visibly seen, which are scheduled offences under Anti-Money Laundering Act, 2010, as a predicate offence as defined under section 2(xxvi) which is hereby reproduced as under:

> "*Means an offence specified in Schedule-I of this Act (AMLA)*"

Articles 192, and 192(A) of the Schedule-I to the "AMLA" are reproduced hereunder:

> *"192 Prosecution for false statement in verification - where tax sought to be evaded is ten million rupees or more.*
> *192A Prosecution for concealment of income - where tax sought to be evaded is ten million rupees or more.*

**Allegation of any scheduled offence**; Any person who is accused of tax evasion under section 192 and 192A, as predicate offence as to money laundering the said person will be tried separately and not as a single offence. And two separate investigations would be conducted as settled by this court in **2023 P.Cr.L.J [Islamabad] 38 (Muhammad Rafiq versus DG FIA, Islamabad).** This question of two separate trials has been pretty much resolved under section 9 sub-section 5 of the AMLA 2010, which is reproduced as under:

> *"(5) Where on conclusion of a trial for any predicate offence and money laundering, the person concerned is acquitted, the attachment of the property or retention or seizure of the property or record under sub-section (3A) and net income, if any, shall cease to have effect."*

The moot question to be determined is if an undeclared or un-accounted amount of money comes in and goes out of the banking account of someone, the Commissioner under section 176 (1)(b) ITO 2001, is empowered to send notices to such person and ask them to furnish the proof of such amount. Which is reproduced as under:

> *(1) The Commissioner may, by notice in writing, require any person, whether or not liable for tax under this Ordinance –*
>
> *(a) to furnish to the Commissioner or an authorized officer, any information relevant to any tax leviable under this Ordinance or to*

> *fulfill any obligation under any agreement with foreign government or governments or tax jurisdiction, as specified in the notice; or; and*
> *(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or an authorized officer concerning the tax affairs of that person or any other person and, for that purpose, the Commissioner or authorized officer may require the person examined to produce any accounts, documents, or computer-stored information in the control of the person.*

The said person, accused of 192 and 192A has to give explanation for this unaccounted money, and the investigation/inquiry would be initiated under the ITO 2001 instead of AMLA 2010. It is like misusing of authority to consider that the undeclared amount/money is the laundered money without obtaining an explanation from the assessee. The accused/assessee is under obligation to give explanation about the money (undeclared/concealed/not on tax net) that where it came from. The division bench of Sindh High Court in **2022 PTD [Karachi] 634 *(Govind Ram versus the Federation of Pakistan)*** elaborated and gave its view that charging a person under 192 and 192A of ITO and under section 3 of AMLA 2010 at the same time is a pre-mature and pre-conceived notion that the accused is also involved in money laundering. It is like jumping to the conclusion that the unaccounted (taxable) income are proceeds of crime and the accused is nothing but involved in money laundering. The court disposed the petition with following observation:

> *"We are therefore, of the view that unexplained amount which came in and went out of the account, could be inquired about and an explanation could be sought but until and unless an explanation is forwarded by the assessee to the dissatisfaction of the officer concerned, it is inconceivable at the said premature stage that it was laundered money which is defined under Anti-Money Laundering Act, 2010. Any amount which is not accounted or not considered as taxable amount not necessarily be the laundered money having meaning under AMLA-2010."*

10. While considering the above discussion this Court comes to the core question and ground raised by the appellants in this case which is based upon a legal question referred in Para No.12 of instant appeal read with Para No.17 (C) and (D) of the ground mentioned in the appeal and highlighted in application under section 265-K Cr.P.C. with reference to grounds (A) and (B) which is a under:

> *"12. That it was also pointed out before the trial court that section 192 and 192A of the income tax ordinance 2001 was inserted in the scheduled of the Act as a predicate offence vide SRO No. 425 (I) (2016) w.e.f May 2016, hence it is established fact that before 2016 violation of ordinance could not form the basis of money laundering allegations against the petitioners.*
>
> *13. That it was also submitted before the trial court that it was evident from the Para No.5 of the complaint the only purported tax evasion was pertaining to tax year 2014 w.e.f the assessment order vide DCR No.01/51 dated 30/6/2020 u/s 122/124 of the Income Tax Ordinance 2001 has been passed by the assessing officers, which is still under litigations in the form of appeal*

*before the appellant forum under relevant law, hence has not still attained the finality."*

11. While appreciating the legal question referred by the appellants in this case it is necessary to go through the concept of "predicate offences" defined in section 2 (xxvi) of the Money Laundering Act, 2010, whereby, predicate offence means "*an offence specified in Schedule-I to this Act*". Similarly, the offence of money laundering defined in section 2 (xxiii) means "*offence of money laundering has the meaning as defined in section 3*" which has already been reproduced above and the last important aspect which is part and parcel of offence under section 3 of the Anti-Money Laundering Act, 2010, is term "proceeds of crime" defined in section 2 (xxviii) of the Act which means "*any property derived or obtained directly or indirectly by any person from the commission of a predicate offence or a foreign serious offence*", therefore, the definition of foreign serious offence is also required to be considered which has been explained in section 2 (xvi) which reads as under:

*"Foreign serious offence" means an offence,-*

*(a) Against the law of a foreign state stated in a certificate issued by, or on behalf of, the government of that foreign state; and*

*(b) Which, had it occurred in Pakistan, would have constituted a predicate offence;*

On comparison of these terms I have to consider the first part which deals with the predicate offence, which has been supported with Schedule (I) of the Act containing the provision of section 192/192-A of the Income Tax Ordinance, 2001, for giving false statement in verification or for concealment of income where documents sought to be evaded is ten million rupees or more. This aspect clearly establishes

that section 192/192-A of the Income Tax Ordinance, 2001 was inserted by SRO No.425(I)/2016 dated 14.05.2016 in Schedule (I) of the Anti-Money Laundering Act, 2010, hence, it is clearly established that any act which is violation of law is to be terms as an offence. The "offence" may comprehend every crime and misdemeanor, or may be used in a specific sense as synonymous with felony or with misdemeanor, as the case may be, or as signifying a crime of lesser grade, or an act not indictable, but punishable summarily or by the forfeiture of a penalty as explained in Black's Law Dictionary by Bryan A. Garner, Editor in Chief. Similarly, the term "offence" has to be considered in terms of section 37 of section 2 of the General Clauses Act, 1897 which means "*any act or omission made punishable by any law for the time being in force*", therefore, it is clearly established that unless the act has been made punishable by any law enforced on the date and time when the same was committed by any individual is to be treated an offence or a crime under that law, else, the same has to be considered no offence in terms of the definition explained in light of **AIR 2001 [SC] 938 *(Surajmani Stella Kujur V. Durga Charan Hansdah)***. I have also been guided by the concept of crimes in respect of Pakistan Penal Code, 1860, whereas section 2 deals with the punishment of offence committed within Pakistan for every act or omission contrary to the provisions thereof of which he shall be guilty within Pakistan. On the plain reading of these provisions and the concept of offence it should have been declared by any law and notified in the procedure provided in the constitutional framework i.e. through Parliament. Likewise the Pakistan Penal Code also explains the term offence in section 40 which is as under:

> *"Except in the chapters and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code. In Chapter IV, Chapter V-A and in the following sections, namely, Sections 64, 65, 66, 67, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328.329,330.331,347,348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under, any/special or local law as hereinafter defined. And in Sections 141, 176, 177, 201, 202, 212, 216 and 441 the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine"*

Resultantly, this Court is of the view that anything or act which is not punishable by law is not to be treated as an offence, therefore, date referred in the SRO No.425(I)/2016 is of decisive factor to be considered for coming into operation of that particular law in terms of section 5 of General Clauses Act, 1897, whereby, the law come into operation on any particular date on which it receive the assent by the President of Pakistan in constitutional scheme. In terms of the principles settled in "concept of statutory interpretations" while dealing with the penal statutes it has been held that a statute enacting an offence or imposing penalty is strictly construed as held in **AIR 2005 [SC] 2119 *(Iqbal Singh Marwah and another Vs. Meenakshi Marwah and another)***. This Court is mindful of the fact that while dealing with the penal provisions and statutes that if two possible and reasonable construction can be put upon a penal provision, the court must lean towards that construction which exempts the subject from penalty

rather than the one which imposes a penalty. It is also settled rule of interpretation that if the conduct of any person does not fall within the parameter of offence / crime he should not be convicted unless that conduct falls clearly within the definition of crime of which he is charged with. The principle of strict construction and application is to be treated in the criminal cases, therefore, penal statutes are to be construed strictly, that is to say, the court must see that the thing charged as an offence is within the plain meaning of the words used, and must not strain the words on any notion that there has been a slip; that there has been a *casus omisus*; that the thing is so clearly within the mischief that it must have been included if thought of. While considering the ground raised by the appellants which revolves around an important date that SRO was issued to include section 192/192-A of the Income Tax Ordinance, 2001 in the Schedule (I) of the Anti-Money Laundering Act, 2010, the date is the most crucial aspect to be consider for prospective application for those provisions under the Anti-Money Laundering Act, 2010, therefore, the concept of date has to be seen in the light of section 3 of section 5 of the General Clauses Act, 1897 and the concept has been explained in **AIR 1998 [SC] 668(*Collector of Central Excise Vs. New Tobacco Co.*), AIR 2003 [SC] 4493 (*Common Cause Vs. Union of India and others*), 2014 P.Cr.L.J 78 (*Mirza Ali Khan Vs. Hidayat Ullah Khan*), PLD 2015 [SC] 401 (*District Bar Association Rawalpindi Vs. Federation of Pakistan*), 1998 P.Cr.L.J 2376 ()** and **AIR 2006 [SC] 413(*SK Shukla and others Vs. State of UP and others*)**.

12. In light of above discussion this Court is of the view that learned Judge, Special (Customs, Taxation & Anti-Smuggling), Rawalpindi / ICT while entertaining the complaint No.05 of 2020 made by the investigation officer without considering the application of law, especially, the penal concept under the Anti-Money Laundering Act, 2010, even investigation officer who issued notice under section 9 (1) of the Anti-Money Laundering Act, 2010, started investigation from date of order of attachment made under subsection 1 of section 8 on the basis of report in his possession while seeking prior permission of the court, provisional attachment of properties of the petitioners and the entire mechanism provided in special law i.e. the Anti-Money Laundering Act, 2010, initiated requires prospective operation of SRO No.425(I)/2016 dated 14.05.2016 which provides the powers to deal with the predicate offence referred in Schedule (I) of section 2 (xxvi) for the first time on that particular date i.e. 14.05.2016, therefore, entire proceedings initiated by the investigation officer as well as the cognizance taken by the special court are defective if seen in context of basic crime which was pointed out in the enquiry under Income Tax Ordinance, 2001, where reference of assessment years were given for the tax year 2012 to 2016 creating the tax demand and even the notice highlights the tax details for those years of 2014, 2015 and 2016 which are not to be considered in terms of the Anti-Money Laundering Act, 2010, within the scope of section 192/92-A of the Income Tax Ordinance, 2001, hence, serious mistake has been committed by the investigation office as well as by the court by treating the offence of

section 192/192-A for the period when the same was not prescribed in the Schedule of the Anti-Money Laundering Act, 2010.

13. For what has been discussed above, this Court is equipped with the powers under section 561-A Cr.P.C. to exercises its inherent jurisdiction which could be exercised to prevent abuse of process of any court or otherwise to secure ends of justice. The powers under section 561-A are vide enough and indefinite which are extra ordinary in nature and to be used consciously in exceptional circumstances when no other remedy is available, especially, in these circumstances when the act which has been referred in this case and made basis of entire proceedings is not offence prior to the cut-off date i.e. 14.05.2016 when section 192/192-A of the Income Tax Ordinance, 2001 was not mentioned in the Schedule of predicate offence. Similarly, the jurisdiction exercised by the investigation officer as well as by the special court is also to be treated outside of the purview of law, however, it is also settled that powers of trial court under section 249-A and 265-K Cr.P.C are co-extensive with similar powers of the High Court under section 561-A Cr.P.C and proper course was to approach the trial court in the first stance, though there is no bar upon the High Court from entertaining any petition in such cases as held in **1985 SCMR 257** ***(Munir Ahmed Vs. State)***, therefore, at this stage this Court is of the view that the entire action of investigation officer as well as cognizance of the court in terms of section 21 (2) of the Anti-Money Laundering Act, 2010, including the notice in terms or section 9(1) of the Anti-Money Laundering Act, 2010, are illegal and beyond the legal authority, hence, instant criminal appeal is **ALLOWED,** the impugned

order dated 22.12.2021 is hereby **SET-ASIDE**, appellants are hereby acquitted and proceedings of the trial court are set-aside and declared beyond its legal jurisdiction, however, the observation recorded in this judgment does not debar the prosecution to initiate de-novo proceedings for any act which if falls within the purview of section 192/192-A of the Income Tax Ordinance, 2001, within the mandate of predicate offence after the notified dated i.e. 14.05.2016.

**(MOHSIN AKHTAR KAYANI)**
**JUDGE**

Announced in the open Court on: **12.07.2024.**

**JUDGE**

**Approved for reporting.**

A.Waheed/-