JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Income Tax Reference No. 65/2024

Mian Group of Chakwal Karamdad Arcade through its Partner
Vs.
Assistant Commissioner Inland Revenue, Islamabad & others

APPLICANTS BY:	Mirza Saqib Siddeeq, Waqas Ahmed, Hafiz Muhammad Idris, Syed Farid Bukhari, Mr. Wasim Abid, Barrister Usama Rauf, Mr. Faisal Jaffar, Mr. Nauman Rafique, Rana Sufyan Qayyum, Mr. Muhammad Ali Haider, Mr. Muhammad Mohsin Nazir, Ch. Naeem ul Haq and Mr. Ahmed Bin Aqeel, Advocates.
RESPONDENTS BY:	Mr. Osama Shahid, Mr. Hassan Ali Khan, Mr. Rehan Seerat, Ch. Kamil Hayat, Mr. Ghulam Qasim Bhatti and Babar Bilal, Advocates for the Tax Department.
DATES OF HEARING:	06.11.2025, 07.11.2025 & 10.11.2025

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BABAR SATTAR, J.- Through this judgment we will decide the fate of the afore-titled Income Tax Reference as well as Income/Sales Tax References listed in Annexure-A to this judgment.

2. The primary question that arises in all these references is whether references filed against orders of Commissioner Inland Revenue (Appeals) ***("CIR (Appeal)")*** were to be remitted to the Appellate Tribunal Inland Revenue ***("ATIR")*** in view of amendments promulgated through the Finance Act, 2025.

3. Prior to the enactment of the Tax Laws (Amendment) Act, 2024, a person aggrieved by the decision of CIR (Appeals) could impugn the same before the ATIR. And a person aggrieved

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by the decision of the ATIR could file a reference seeking the adjudication of questions of law arising from the ATIR's order. Section 133 of the Income Tax Ordinance, 2001 ***("ITO")***, was amended through the Tax Laws (Amendment) Act, 2024, which introduced Section 126A into the ITO, pursuant to which a party aggrieved by the order of CIR (Appeals) or the ATIR could file a reference application before the High Court under Section 133(1) of the ITO. Consequently, one forum of appeal i.e. an appeal before the ATIR against an order of CIR (Appeals), was excluded. However, through the Finance Act, 2025, the Parliament once again reverted to the old adjudicatory scheme by omitting Section 126A of the ITO and restoring Section 133 of the ITO to the form in which it existed prior to enactment of the Tax Laws (Amendment) Act, 2024.

4. The question of the fate of the references before us has therefore arisen in two contexts. One, we have been asked to adjudicate whether provisions of the Tax Laws (Amendment) Act, 2024, could be given a retrospective effect as one forum of appeal stood excluded pursuant to its provision, infringing upon the substantive right of taxpayers to appeal. And two, whether the references filed against orders of CIR (Appeals) directly before the High Court, pursuant to amendments made in the ITO by virtue of the Tax Laws (Amendment) Act, 2024, ought to be remitted back to the ATIR in view of the changes in ITO introduced through the Finance Act, 2025, reverting to the adjudicatory scheme as it existed prior to enactment of the Tax Laws (Amendment) Act, 2024.

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5. We find that in the event that this Court comes to the conclusion that pending references are to be remitted back to the ATIR to be treated as appeals in view of the provision of Section 133 of the ITO as it exists after the Finance Act, 2025, the question of whether the Tax Laws (Amendment) Act, 2024, could be applied retrospectively would become a question of an academic nature, as irrespective of whether the Tax Laws (Amendment) Act, 2024, was to be applied retrospectively, in view of the Finance Act, 2025, the fate of all pending references filed against decisions of CIR (Appeals) would have to be decided in a similar fashion.

6. The learned counsels for the taxpayers and the Tax Department were in agreement that the references ought to be remitted back to the ATIR to be treated as appeals and decided on their merits as the amendments introduced to Section 133 of the ITO by the Finance Act, 2025, were procedural in nature and were to be applied retrospectively. It was further argued that through such amendment an additional forum of appeal had been restored, which amendment was therefore of a beneficial nature and ought to be given retrospective effect. It was acknowledged that any party aggrieved by decision of the ATIR would then have a right to file a reference before this Court and consequently would suffer no prejudice from the retrospective application of the amendments introduced into the ITO through the Finance Act, 2025. The Court was informed that the Lahore High Court in ***Harris Hasan Syed vs. The Commissioner Inland Revenue (I.T.R No.21137/2025)***, decided by judgment dated 29.09.2025, had declared that the amendments introduced through the Finance Act, 2025, restoring a right of

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appeal before the ATIR was to be given retrospective effect and had remitted references filed against orders of CIR (Appeals) to the ATIR to be treated as appeals and decided in accordance with law. In doing so, the Lahore High Court had also directed that the court fee paid while filing the references was also to be returned to the applicants.

7. The manner in which procedural changes to statutes are to be interpreted and applied was explained by the Supreme Court in ***Adnan Afzal vs. Capt. Sher Afzal (PLD 1969 SC 187)***. The question before the Supreme Court was whether a question of maintenance pending before the City Magistrate was to be transferred to the Family Court in view of provisions of the West Pakistan Family Courts Act, 1964. The Supreme Court answered the question in the affirmative by holding the following:

> *"The general principle with regard to the interpretation of statutes as laid down in the well known case of the Colonial Sugar Refining Company Limited v. Irving (1905 A C 369) is that "if the matter in question be a matter of procedure only", the provisions would be retrospective. "On the other hand, if it be more than a matter of procedure, if it touches a right in existence at the passing of the Act", then "in accordance with a long line of authorities extending from the time of Lord Coke to the present day", the legislation would not operate retrospectively, unless the Legislature had either "by express enactment or by necessary intendment" given the legislation retroactive effect.*
>
> *To the same effect are the observations of Jessel, Master of the Rolls, in the case of In re: Joseph Suche & Co. Limited (2), where it was observed that as "a general rule when the Legislature alters the rights of parties by taking away or conferring any right of action, its enactments, unless in express terms they apply to pending actions, do not affect them. It is said that there is one exception to that rule,*

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namely, that, these enactments merely affect procedure and do not extend to rights of action, they have been held to apply to existing rights."

The next question, therefore, that arises for consideration is as to what are matters of procedure. It is obvious that matters relating to the remedy, the mode of trial, the manner of taking evidence and forms of action are all matters relating to procedure. Crawford too takes the view that questions relating to jurisdiction over a cause of action, venue, parties pleadings and rules of evidence also pertain to procedure, provided the burden of proof is not shifted. Thus a statute purporting to transfer jurisdiction over certain causes of action may operate retroactively. This is what is meant by saying that a change of forum by a law is retrospective being a matter of procedure only. Nevertheless, it must be pointed out that if in this process any existing rights are affected or the giving of retroactive operation cause inconvenience or injustice, then the Courts will not even in the case of a procedural statute, favour an interpretation giving retrospective effect to the statute. On the other hand, if the new procedural statute is of such a character that its retroactive application will tend to promote justice without any consequential embarrassment or detriment to any of the parties concerned, the Courts would favorably incline towards giving effect to such procedural statutes retroactively."

8. The question of retrospective application of procedural law then came before the Supreme Court in ***Ch. Safdar Ali vs. Malik Ikram Elahi and another (1969 SCMR 166)*** where the application of the West Pakistan Basic Democracies (Elections of Chairman) Rules, 1960, was in contention. The Supreme Court held that, *"there can be no vested right in procedure and change in procedure without affecting substantive rights, will operate on pending cases. The amended rule which merely provided for an additional forum for the decision of election petitions brought*

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before procedural change which could govern pending petitions entrusted to it."

9. In ***Hafiz Mohammad Abdullah vs. Imdad Ali Shah and another*** ***(1972 SCMR 173)*** the question before the Supreme Court was the stage at which the amendment introduced through the Criminal Procedure (West Pakistan Amendment) Act, 1964, was to be made applicable. While reiterating that changes in the procedure of trials that did not affect vested rights applied to pending cases, the Supreme Court cited with approval the opinion of Craies in his Treatise on Statute Law, 5th Edn., at pp. 370-371, which noted that, *"it is perfectly settled that if the Legislature forms a new procedure, that, instead of proceeding in this form or that you should proceed in another and a different way, clearly thereby bygone transactions are to be sued for and enforced according to the new form of procedure. Alterations in the form of procedure are always retrospective unless there is some good reason or other why they should not be."* It was clarified by the Supreme Court that, *"an amending law does not operate retrospectively unless the Legislature has either by express enactment or by necessary intendment given the legislation retrospective effect if the law seeks to alter the rights of parties by taking away or conferring any right of action but there is one exception to this rule, namely, that enactments, which merely affect procedure and do not extend to rights of action, affect all pending proceedings unless there be words in the statute itself indicating a contrary intention."*

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10. In ***Mst. Yasmeen Nighat and others vs. National Bank of Pakistan and others*** ***(PLD 1988 SC 391)*** the Supreme Court, while applying the principles cited above, held that provisions of Banking Companies (Recovery of Loans) (Amendment) Ordinance, 1983, would apply to pending proceedings which would need to be transferred to the Special Court established under the Amended Act.

11. In ***Yusuf Ali Khan Barrister-at-Law, Lahore vs. Messrs Hongkonk & Shanghai Banking Corporation, Karachi and another*** ***(1994 SCMR 1007)*** the question once again related to application of Banking Companies (Recovery of Loans) (Amendment) Act, 1992, to pending proceedings. The Supreme Court held that, *"[T]he change of forum for the trial of suits was a mere matter of procedure which applied to all pending cases in the absence of any prejudice to the parties… No vested right of the appellant was, therefore, affected on account of transfer of his pending suit from the High Court to a Special Court of competent jurisdiction."*

12. The law as to how a change of forum for adjudication of a dispute or controversy is to be treated as procedural law and how such procedural law applies to pending matters, to the extent that they do not adversely affect the rights of parties and do not reopen past and closed transactions was reiterated by the Supreme Court in ***Muhammad Shabbir and another vs. Quaid-e-Azam University through Vice-Chancellor, Islamabad and others*** ***(2022 SCMR 487)*** and ***Muslim Commercial Bank vs. Punjab Labour Appellate Tribunal (2025 SCMR 303)***.

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13. The second proposition raised by the learned counsels for the parties before us was that the amendments made with regard to the forum for adjudication to the ITO through the Finance Act, 2025, was beneficial in nature as it provided for an additional forum for appeal and ought to apply retrospectively. We agree with this contention as well. The principle of how beneficial and/or remedial provisions of law were to be interpreted and applied was explained by the Supreme Court in ***Messrs Army Welfare Sugar Mills Ltd. and others vs. Federation of Pakistan and others (1992 SCMR 1652)***, where it was held that, *"a notification which purports to impair an existing or vested right or imposes a new liability or obligation, cannot operate retrospectively in the absence of legal sanction, but, the converse i.e. a notification which confers benefit cannot operate retrospectively, does not seem to be correct proposition of law."*

14. The manner in which remedial statutes are to be interpreted was considered by the Supreme Court in ***Commissioner of Income Tax vs. Shahnawaz Ltd. and others (1993 SCMR 73)***. The Supreme Court cited with approval Corpus Juris Secundum, Vol. 82 (paragraph 388), which provides the following:

> *"In construing remedial statutes, regard should be had to the former law, the defects or evils to be cured or abolished, or the mischief to be remedied, and the remedy provided, and they should be interpreted liberally to embrace all cases within their scope so as to accomplish the object of the legislature and to give effect to the purpose of the statute by suppressing the mischief and advancing the remedy, provided it can be done by reasonable construction in furtherance of the object."*

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The Court then also cited with approval commentary from Crawford in his "Statutory Construction" (1940 Edn.) in para. 282, which provides the following:

> *"282. Remedial statutes.---Even remedial statutes may be subject to the principles hereinto force discussed, opposing any construction which will give the enactment retrospective operation. Yet, since remedial statutes are usually looked upon with favour by the Courts, they should be liberally construed. But there appears to be considerable confusion in the cases with reference to giving remedial Acts retrospective effect through construction. If the rule of liberal construction is to be applied, as it obviously should then any doubt should be resolved in favour of retrospective operation, if such operation does not destroy or disturb vested rights, impair the obligations of contracts, create new liabilities violate due process of law or contravene some other Constitutional provision, and if such operation will carry out the intention of the legislature as ascertained through the application of the principle of liberal construction. In other words, a statute relating to remedial law may properly, in several instances, be given retrospective operation."*

The Supreme Court, while upholding the judgment of the High Court, held that, *"the retrospective operation visualized by the instant amendment could extend only to such "cases which were pending at the time the amending law was enacted i.e. cases which had not been finally determined or proceedings which had not attained finality… The cases which had finally been determined or had attained finality, i.e. which were passed and closed transactions, could not be reopened under amending legislation as there are no express words to that effect employed in the amending law."*

15. The Lahore High Court in ***Commissioner of Income Tax vs. J.D. Sugar Mills Ltd. (2009 PTD 481)*** applied principle that curative and remedial legislation was to be given

Uncertify

retrospective effect subject to the exception that such retrospective effect of legislation would be limited to pending cases. It was held that, *"[T]he only exception to the principle that curative and remedial legislature is retrospective, is that the same applies only on the pending cases. 'Pending' would, however, mean and include at any stage of the proceedings starting from Assessing Officer to the Supreme Court of Pakistan. This obviously means that it would not apply on the cases wherein the concerned persons have not challenged the action of the revenue authorities before any higher forum and the same is not pending adjudication."*

16. In view of the principles, enumerated above, the changes brought to the forum for hearing a grievance against decision of CIR (Appeals) by virtue of amendments introduced to the ITO through the Finance Act, 2025, being procedural in nature, would apply retrospectively to all pending cases. The said amendment by virtue of providing an additional forum for appeal before the ATIR, as it existed prior to enactment of the Tax Laws (Amendment) Act, 2024, also being beneficial ought to apply retrospectively. Such application of the amendments introduced through the Finance Act, 2025, would, however, only apply to pending cases and not to matters that have attained finality and are past and closed transactions. Consequently, all references that have been filed against decisions of CIR (Appeals) directly before the High Court and are pending adjudication are liable to be remitted to the ATIR, which will treat them as appeals pending before the ATIR and decide them in accordance with law.

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17. We also agree with the decision of Lahore High Court rendered in ***Harris Hasan Syed*** that the court fee paid by the applicants, while filing of these references, ought to be reimbursed to them. Let the office ensure that the needful is done. The applicants would, however, be required to file the requisite fee to be paid for purposes of filing of an appeal before the ATIR. These references are disposed of accordingly.

18. Let a copy of this judgment be sent to the Registrar of the ATIR under seal of this Court.

(SARDAR EJAZ ISHAQ KHAN)
JUDGE

(BABAR SATTAR)
JUDGE

Announced in the open Court on 14.11.2025.

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Approved for Reporting

A. Rahman Abbasi

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Annexure-A

Sr. No.	Number	Titled
01	Income Tax Reference No.66 of 2024	Mian Group of Chakwal Karamdad Arcade through its Partner vs. Assistant Commissioner Inland Revenue & others
02	Income Tax Reference No.120 of 2024	Uch Power (Private) Limited through its Authorized Representative vs. Federal Board of Revenue through its Chairman & others
03	Income Tax Reference No.119 of 2024	M/s Al-Safa Golden Co. (Pvt.) Limited through its Authorized Representative vs. Chief Commissioner Inland Revenue, Islamabad, & others
04	Income Tax Reference No.117 of 2024	M/s Marine Security Services (Pvt.) Limited, Islamabad, through its Authorized Director vs. The Commissioner Inland Revenue, Islamabad, & others
05	Income Tax Reference No.140 of 2024	Midas Communications Pakistan (Pvt.) Limited, Islamabad, through its Chief Financial Officer vs. Commissioner Inland Revenue, Islamabad, & others
06	Income Tax Reference No.166 of 2024	M/s University Town (Pvt.) Limited through its Authorized Representative vs. Chief Commissioner Inland Revenue, Islamabad, & others
07	Income Tax Reference No.167 of 2024	M/s University Town (Pvt.) Limited through its Authorized Representative vs. Chief Commissioner Inland Revenue, Islamabad, & others
08	Income Tax Reference No.192 of 2024	Sana Ullah Qaiser vs. Commissioner Inland Revenue, Zone-City, Islamabad, & others
09	Income Tax Reference No.308 of 2024	M/s Webdoc (SMC-Private) Limited, Islamabad, through its Authorized Person vs. Commissioner Inland Revenue (Zone-II), Islamabad, & others
10	Income Tax Reference No.331 of 2024	M/s Fazal Steel (Private) Limited, Islamabad, through its Director vs. Assistant/Deputy Commissioner Inland Revenue, Unit-I, Zone-I, Islamabad & others
11	Income Tax Reference No.79 of 2025	M/s Damcon Engineering Solutions (Private) Limited, Islamabad, through its Authorized Officer vs. Commissioner Inland Revenue, Corporate Tax Office, Islamabad & others
12	Sales Tax Reference No.47 of 2024	M/s Hair Transplant Institute (Private) Limited, Islamabad, through its Manager Finance vs. Commissioner Inland Revenue, Zone-II, Islamabad & others
13	Sales Tax Reference No.26 of 2024	M/s First Security (Private) Limited, Rawalpindi, through its Chief Executive & Director vs. Appellate Tribunal Inland Revenue, Islamabad & others

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