

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NOS. 1125 & 1126 OF 2026

M/s CM Pak Limited

Versus

Federation of Pakistan through Secretary Revenue Division & others.

Petitioner by : **Mr. Usman Shaukat, Advocate (in both writ petitions).
Mr. Sabir Hussain, Assistant Manager Litigation, CM
Pak Limited.**

Respondents by : **Mr. Rehan Seerat, Advocate (in both writ petitions).**

Date of hearing : **25.03.2026**

MUHAMMAD AZAM KHAN, J. This judgment shall dispose of Writ Petition Nos. 1125 & 1126 of 2026 titled *M/s CM Pak Limited Vs. Federation of Pakistan, through Secretary Revenue Division and others*, as common questions of law and facts are involved in both the writ petitions. Through the instant writ petition, the petitioner company has assailed the notice dated 19.02.2026 issued for recovery of Super Tax under Section 4C read with Division IIB of Part I of the First Schedule to the Income Tax Ordinance, 2001, issued by the respondent No. 4 for the tax year 2023.

2. Learned counsel for the petitioner contends that the impugned notice has been issued in violation of the mandatory framework provided under Section 168 and Chapter X of the Ordinance. It is argued that the respondents have failed to give due credit for taxes already withheld at source, thereby inflating the petitioner's tax liability under Section 4C. Counsel submits that such withholding taxes, having been collected in accordance with law, must necessarily be adjustable against the final tax liability, including any levy under Section 4C. He further asserts that the position adopted by Respondent No. 4, that the petitioner may seek a refund instead of an adjustment, runs contrary to the express language of Section 4C(3) of the Ordinance. According to learned counsel, the statutory scheme does not permit the denial of adjustment in favor of a refund mechanism, particularly where the law expressly contemplates credit

for taxes already deducted or collected. It is thus contended that the respondents' approach amounts to an unlawful extraction of additional tax, beyond what is legitimately due.

3. On the other hand, learned counsel for the respondents raises a preliminary objection as to maintainability. It is argued that the petitioner has approached this Court without exhausting the alternative remedies available under the law. Counsel submits that the issuance of notice under Section 4C merely initiates the process of determination, and that the petitioner ought to have responded to the same before invoking the constitutional jurisdiction of this Court. On merits, the respondents contend that the Super Tax levied under Section 4C constitutes an independent and distinct charge on income, separate from the general scheme of taxation under the Ordinance. In support of this proposition, reliance is placed upon the judgment of the Hon'ble Federal Constitutional Court, wherein Super Tax has been characterized as an "independent tax." It is thus argued that allowing adjustment of withholding taxes against liability under Section 4C would undermine the very nature of the levy and run afoul of binding judicial precedent.

4. This Court carefully considered the arguments advanced by learned counsel for the parties and has thoroughly reviewed the contents of the petition in juxtaposition with the comments submitted by Respondents Nos. 3 and 4.

5. Briefly stated, the facts leading to filing of the instant constitutional petitions are that; through the Finance Act, 2022, the Federal Government introduced Super Tax by inserting Section 4C into the Income Tax Ordinance, 2001 (hereinafter referred to as "**the Ordinance, 2001**"), making the same applicable from Tax Year 2022 and onwards. For the sake of convenience and ready reference, Section 4C is reproduced hereunder: -

***"4C. Super tax on high earning persons.—** (1) A super tax shall be imposed for tax year 2022 and onwards at the rates specified in Division IIB of Part I of the First Schedule, on income of every person: Provided that this section shall not apply to a banking company for tax year 2022.*

(2) *For the purposes of this section, “income” shall be the sum of the following:—*

(i) profit on debt, dividend, capital gains, brokerage and commission;

(ii) taxable income (other than brought forward depreciation and brought forward business losses) under section 9 of the Ordinance, excluding amounts specified in clause (i);

(iii) imputable income as defined in clause (28A) of section 2 excluding amounts specified in clause (i); and (iv) income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under Fourth, Fifth [Seventh and Eighth] Schedules.

(3) The tax payable under sub-section (1) shall be paid, collected and deposited on the date and in the manner as specified in sub-section (1) of section 137 and all provisions of Chapter X of the Ordinance shall apply.

(4) Where the tax is not paid by a person liable to pay it, the Commissioner shall by an order in writing, determine the tax payable, and shall serve upon the person, a notice of demand specifying the tax payable and within the time specified under section 137 of the Ordinance.

(5) Where the tax is not paid by a person liable to pay it, the Commissioner shall recover the tax payable under sub-section (1) and the provisions of Part IV, X, XI and XII of Chapter X and Part I of Chapter XI of the Ordinance shall, so far as may be, apply to the collection of tax as these apply to the collection of tax under the Ordinance.”

6. In pursuance of the aforesaid legislative measures, the Federal Board of Revenue (FBR) issued Circular dated 23.09.2022, whereby field formations across the country were directed to initiate necessary proceedings for the assessment and recovery of Super Tax in terms of the newly inserted Section 4C of the Ordinance, 2001. Feeling aggrieved by the imposition and enforcement of the said levy, taxpayers, including the petitioner company, invoked the constitutional jurisdiction of this Court by filing separate constitutional petitions, inter alia, challenging the vires and applicability of Section 4C. The principal contention raised therein was that the respondents’ act of demanding and

recovering Super Tax was unlawful, without jurisdiction, and liable to be declared as such. In addition to the challenge to the levy itself, the petitioner company also sought consequential relief to the effect that any amount already paid on account of Super Tax be adjusted against its future tax liabilities. For ease of reference, the relevant prayer sought by the petitioner company in Writ Petition No. 4359 of 2022 is reproduced hereunder: -

“In view of the foregoing, it is, therefore, most respectfully prayed that the instant Petition may kindly be accepted, and the Respondents’ act of demanding the tax under the newly inserted Section 4C read with Division IIB of the Part I of First Schedule of the Ordinance of 2001 for tax year 2022, or any year thereafter, may kindly be declared to be illegal and without lawful authority and of no legal effect.

It is further respectfully prayed that the sum of PKR 89,640,124 (Pak rupees eighty-nine million six hundred and forty thousand one hundred and twenty four) that has been paid under protest by the Petitioner Company be refunded to it. Alternatively, the said amount be adjusted against any future tax liabilities of the Petitioner Company.” (Underlined for emphasize)

7. The constitutional petitions were finally disposed of vide consolidated Judgment dated 20.07.2023 passed by our learned brother Mr. Justice Sardar Ejaz Ishaq Khan in Writ Petition No. 4027 of 2022 with the following observations: -

“1. §4C, as it stands now, falls to be ultra vires the fundamental rights under Articles 18, 23 and 24, read with Article 4 of the Constitution. Using Imrana Tiwana phraseology⁵⁶, §4C is “held to be against the scheme of the Constitution and should either be read down or declared ultra vires for the reasons given” in this judgment. With the preference to save rather than destroy, §4C is to be read down in calculating the income taxable to super tax so as to: (a) exclude all classes of income enumerated therein the tax on which is final under the other provisions of the Ordinance; and (b) sever the exclusions of brought forward depreciation, brought forward business losses, and brought forward

amortization allowances available to the taxpayers under the other extant provisions of the Ordinance;

2. §4C, as read down, will have prospective application only, and will not apply to any transactions or events past and closed on or before 30th June 2022;

3. §4C, as read down, will not apply to the benevolent funds holding exemptions from tax under the other provisions of the Ordinance;

4. §4C, as read down, will not apply to petroleum and exploration companies to the extent its application results in the taxation of such companies exceeding the thresholds stipulated in Rule 4 of the Fifth Schedule to the Ordinance; and

5. All notices of demand or recovery impugned in the petitions are set aside, without prejudice to the revenue's right to issue fresh notices not inconsistent with this judgment."

8. Thereafter, the respondents/department preferred Intra-Court Appeals against the judgments rendered by this Court. In the interregnum, the vires of Super Tax imposed under Sections 4B and 4C of the Income Tax Ordinance, 2001 were also assailed before the Hon'ble Federal Constitutional Court by various taxpayers, including the petitioner company. The Hon'ble Federal Constitutional Court, in order to ensure uniformity and authoritative adjudication on the constitutional questions involved, directed that all such matters pending before the High Courts be transmitted to it for adjudication. Consequently, the Intra-Court Appeals pending before this Court were also transmitted to the Hon'ble Federal Constitutional Court in compliance with the said directions. The Hon'ble Federal Constitutional Court, thereafter, vide consolidated judgment dated 28.01.2026, in case titled *M/s DG Khan Cement Company Limited v. Federation of Pakistan, etc.*, decided the controversy against the taxpayers and, inter alia, declared Section 4B & 4C *intra vires* to the Constitution, and set aside the judgments dated 20.07.2023 and 15.03.2024 passed by this Court. For ease of reference, the relevant extract from the judgment dated 28.01.2026 passed by the Hon'ble Federal Constitutional Court is reproduced hereunder: -

“9. We have heard the parties and considered their submissions at length. Two members of this Bench also heard the matters extensively between March – December 2025 as members of the Bench of the Supreme Court. By this short order, the details of which will be further elucidated and recorded later, we decide the matters pertaining to both section 4B and section 4C, Income Tax Ordinance, as follows:

- i. Section 4B is upheld as intra vires the Constitution and will apply as enacted for tax year 2015 and onwards at the rates prescribed in Division IIA, Part I, First Schedule, Income Tax Ordinance, 2001; the decisions of the learned High Courts in section 4B cases are declared to expound the correct position in law holding section 4B to be validly enacted as a “tax”; The provisions of section 4B are found neither discriminatory nor do they create any unreasonable or hostile classification among persons forming the same class upon whom the charge is imposed. The classification introduced thereunder is income-based, rests on an intelligible differentia, and bears a rational nexus with the object sought to be achieved. The provision does not suffer from any inherent lack of legislative competence, nor does it, on its face, transgress any fundamental right in a manner sufficient to warrant its invalidation. Any perceived inequities or hardships arising from the operation of section 4B fall primarily within the legislative domain and do not, by themselves, justify judicial interference in fiscal matters. The provision squarely falls within Entry 47 of the Fourth Schedule, Legislative List, Part I of the Constitution, namely, ‘taxes on income’. The legislature, therefore, was fully competent to impose, abolish, remit, alter, or regulate such tax through a Finance Act, as part of a Money Bill under Article 73(2)(a) of the Constitution of the Islamic Republic of Pakistan, 1973 (‘the Constitution’). Consequently, section 4B is declared to be intra vires the Constitution;*
- ii. The preliminary objection raised by the taxpayers regarding the maintainability of the appeals in section 4C cases for not having been filed by the Federation is hereby rejected. This Court has the inherent power to transpose a party, should it be necessary for just and proper adjudication of a matter before it. Federation of Pakistan is a party in the appeals as a Respondent. Therefore, it can be transposed as an Appellant. It is so done. Record also reflects that of the pending cases, several appeals involving common questions of law including vires of the law, challenged show-cause notices, circulars and*

actions of the FBR/CIR, are filed by the Federation in addition to the CIR/FBR, therefore the appeals are held to be maintainable on this count too;

- iii. Section 4C is held to be intra vires the Constitution and shall apply as enacted for tax year 2022 and onwards at the rates prescribed in Division IIB, Part I, First Schedule, Income Tax Ordinance, 2001. It is established law that the legislature has the plenary power to enact laws with retrospective and prospective effect subject to such laws not effecting past and closed transactions. There is no provision in the Ordinance 2001 whereby the closing of accounts of a tax year qualifies as an event which precludes the imposition of a fresh charge where none existed before, particularly when returns of income for tax year 2022 were yet to be filed. The impugned Judgments of the Division Benches of the learned Sindh, Islamabad and Lahore High Courts to the extent they hold section 4C not to apply retroactively to tax year 2022 are set aside;
- iv. For the same reasons as above, the rates in Division IIB, Part I, First Schedule, Income Tax Ordinance amended through Finance Act 2023 shall apply for tax year 2023. The impugned Pakistan Oilfields Judgment dated 15.03.2024 of the Islamabad High Court to the extent it holds the rates in amended Division IIB not to apply retroactively to tax year 2023 is set aside;
- v. It is held that the definition of "income" for purposes of section 4C in so far as it includes income from all sources is validly enacted. The impugned judgments dated 20.07.2023 and 15.03.2024 of the Islamabad High Court to the extent they read down section 4C are set aside;
- vi. The direction issued by the learned Islamabad High Court, in the Pakistan Oilfields Judgment dated 15.03.2024, to the Federal Board of Revenue (FBR) to issue circular to implement the aforesaid judgment across Pakistan is beyond its jurisdiction and is set aside;
- vii. Super tax is a tax on income independent of the tax levied under section 4 of the Income Tax Ordinance, 2001. Entry 47, of Part I of the Fourth Schedule of the Constitution, Parliament is competent to levy "taxes on income". Therefore, section 4C is a self-contained provision insofar as this levy is concerned and is thus, a standalone tax on income. As such, section 4C as applies to capital gains under section 37A and Rules of the Eighth Schedule, Income Tax Ordinance, 2001 is held to be applicable thereto, being within

the ambit of section 4C(2)(i) and (iv), Income Tax Ordinance 2001;”

(Underlined for emphasis)

9. Subsequent to the pronouncement of the aforementioned consolidated judgment by the Hon'ble Federal Constitutional Court of Pakistan, Respondent No. 4 issued notice dated 11.02.2026 to the petitioner company for recovery of Super Tax, that has not been paid along with the return. It is this very notice which has been impugned in the instant constitutional petitions, i.e., Writ Petition Nos. 1125 and 1126 of 2026.

10. In view of the rival submissions advanced by the learned counsel for the parties, the following principal questions arise for determination by this Court (i) Whether the levy of Super Tax under Section 4C of the Income Tax Ordinance, 2001 constitutes a distinct and independent charge on income, separate from the tax imposed under Section 4 thereof; and (ii) Whether income tax, including taxes collected or deducted at source, can be adjusted against the liability arising under Section 4C of the Ordinance.

11. At the very outset, and before adverting to the merits of the case, we must be permitted to bestow a few considerations upon the nature and extent of the State's power of taxation, which is acknowledged to vest in the sovereign. It is an accepted principle that the power to tax the people and their property is essential to the very existence of government and may be legitimately exercised in respect of all matters within its lawful domain, to the fullest extent which the Legislature, in its wisdom, may deem appropriate. Parliament enjoys wide, plenary, and exclusive authority to enact taxation laws as an essential attribute of State sovereignty. This power enables the Legislature to design, structure, and implement fiscal measures aimed at ensuring economic stability, resource mobilization, and public welfare, subject only to such limitations as are expressly prescribed by the Constitution. The scope and contours of this power have been authoritatively delineated by the august Supreme Court in PLD 1997 SC 582, wherein it was held that the power of taxation is an inherent and

indispensable attribute of sovereignty, and that the Legislature is competent to classify, structure, and impose different kinds of taxes, provided such measures do not transgress constitutional limitations. The Hon'ble Supreme Court further observed as under: -

“The power of taxation rests on necessity; it is an essential and inherent attribute of sovereignty belonging as a matter of right to every independent State or Government.

Such power is an inherent one, and is not dependent upon any grant by the Constitution, or the consent of the owners of property subject to taxation; Constitutional provisions with respect to taxation constitute a limitation on the legislative power and not a grant of power. The power to tax rests primarily in the State, to be exercised by its legislature and the State may exercise the power directly or may delegate such power as political sub-divisions of the State. The exercise of the taxing power is a high Governmental function, in invitum in nature. Generally, the power of taxation is as extensive as the range of subjects over which the power of the Government extends. As to such subjects, and except in so far as it is limited or restrained by Constitutional provisions, a State's power of taxation, if exercised for public purposes, is general, unlimited, and absolute, extending to all persons, property, and business within its jurisdiction.

Since this power is contained in the Constitution, one's approach while interpreting the same should be dynamic, progressive and oriented with the desire to meet the situation, which has arisen, effectively. The interpretation cannot be narrow and pedantic but the Court's efforts should be to construe the same broadly, so that it may be able to meet the requirement of ever changing society. The general words cannot be construed in isolation but the same are to be construed in the context in which they are employed. In other words, their colour and contents are derived from their context.

In a Federal Constitution like in Pakistan, the legislative power is distributed between the Provincial and the Federal Legislatures. With that view legislative lists are prepared. The entries contained therein indicate the subjects on which a particular Legislature is competent but they do not provide any restriction as to the power of the Legislature concerned. It can legislate on the subject mentioned in an entry so long as it does not transgress or encroach upon the power of the other Legislature and also does not violate any fundamental right as the legislative power is subject to constraints contained in the Constitution

itself. It is also a well settled proposition of law that an entry in a legislative list cannot be construed narrowly or in a pedantic manner but it is to be given liberal construction.”

12. Now, advertent to the merits of the case, it may be observed that reproduction of Section 4C of the Income Tax Ordinance, 2001 is unnecessary, the same having already been set out and examined in the preceding paragraphs. A careful reading of the statutory text placed on record leaves little room for ambiguity that the Legislature has consciously structured the Income Tax Ordinance, 2001, to contain multiple and independent charging provisions, each creating a separate fiscal liability, though relatable to the common subject of “income.” Section 4, reproduced above, embodies the general charge of income tax on taxable income, wherein the liability is computed by applying prescribed rates to “taxable income” as determined under the Ordinance. Sub-section (2) of Section 4 is particularly instructive, as it sets out a complete computational mechanism, culminating in the deduction of tax credits, including those under Section 168, thereby demonstrating that Section 4 operates as a self-contained code for the levy of normal income tax.

13. However, the Legislature has, immediately thereafter, enacted provisions such as Section 4B and Section 4C, each beginning with the categorical expression that “a super tax shall be imposed.” The use of this language is neither incidental nor decorative; rather, it reflects a clear legislative intent to create a fresh and independent charge of tax, distinct from the charge created under Section 4. Notably, Section 4C(1) provides that “a super tax shall be imposed at the rates specified in Division IIB of Part I of the First Schedule, on income of every person,” thereby employing the same operative expression “shall be imposed” as used in Section 4, which is the hallmark of a charging provision in fiscal legislation. This parallel drafting signifies that Section 4C is not subordinate to Section 4, but stands alongside it as an additional and independent levy.

14. The distinction becomes more pronounced when one examines the base of taxation. Section 4 operates on “taxable income,” a term of art defined under Section 9 and computed after giving effect to various inclusions, exclusions, deductions, and adjustments. In contrast, Section 4C(2) defines “income” for the purposes of super tax in an altogether different and self-contained manner, by aggregating specific categories such as profit on debt, dividend, capital gains, and certain components of taxable income, while expressly excluding brought forward depreciation and business losses. This deliberate departure from the concept of “taxable income” underscores that the Legislature did not intend the super tax to be merely an incremental surcharge on the same base, but rather a separate tax on a specially constructed measure of income.

15. Further, the structural scheme of Section 4C reinforces its independent character. Sub-section (3) thereof explicitly provides that the tax payable “shall be paid, collected and deposited... and all provisions of Chapter X of the Ordinance shall apply.” This provision is of critical importance, as it demonstrates that while Section 4C creates a distinct charge, it does not replicate the entire machinery for collection and enforcement; instead, it borrows the procedural framework from Chapter X. Such legislative drafting is a well-recognized technique, whereby a separate charging section is coupled with a common set of machinery provisions, without in any manner diluting the independence of the charge itself. The same pattern is evident in Section 4B, thereby lending consistency to the legislative scheme.

16. The placement of Section 168 within the broader framework further clarifies this position. Section 4(3) makes reference to tax credits, including those under Section 168, in the context of computing liability under Section 4. However, this does not imply that all taxes within the Ordinance are subsumed within Section 4. Rather, it indicates that Section 4 contains its own computational regime, within which such credits are to be applied. In contrast, Section 4C does not incorporate Section 4(2) or (3) by reference; instead, it provides its own charging mechanism and then subjects itself to the general

procedural provisions of Chapter X, including those relating to collection, recovery, and advance tax. This distinction is crucial, for it demonstrates that the liability under Section 4C arises independently and is not the result of any computation under Section 4.

17. The controversy regarding the nature of the super tax under Section 4C now stands conclusively settled in view of the authoritative pronouncement of the Federal Constitutional Court, as under: -

“vii. Super tax is a tax on income independent of the tax levied under section 4 of the Income Tax Ordinance, 2001. Entry 47, of Part I of the Fourth Schedule of the Constitution, Parliament is competent to levy “taxes on income”. Therefore, section 4C is a self-contained provision insofar as this levy is concerned and is thus, a standalone tax on income. As such, section 4C as applies to capital gains under section 37A and Rules of the Eighth Schedule, Income Tax Ordinance, 2001 is held to be applicable thereto, being within the ambit of section 4C(2)(i) and (iv), Income Tax Ordinance 2001.”

18. The Hon’ble Federal Constitutional Court, while examining the vires and scope of Section 4C of the Income Tax Ordinance, 2001, has authoritatively declared that super tax is a tax on income independent of the tax levied under Section 4. This finding is anchored in Entry 47 of Part I of the Fourth Schedule to the Constitution, which confers upon Parliament the plenary competence to levy “taxes on income” without restricting the Legislature to a singular mode or form of such taxation. The Court, therefore, recognized that the constitutional framework permits the imposition of multiple, distinct taxes on the same subject of income, provided each is created through a valid legislative instrument. The Court further held that Section 4C constitutes a “self-contained provision” and operates as a “standalone tax on income.” The significance of this characterization is profound. By describing Section 4C as self-contained, the Court clarified that the levy under this provision is not dependent upon, nor derived from, the general charging mechanism embodied in Section 4. Instead, Section 4C creates its own independent charge, its own taxable base (as defined

in subsection (2)), and its own mechanism for imposition and recovery, albeit drawing upon the general procedural framework of the Ordinance.

19. Importantly, the Court extended this reasoning to hold that the ambit of Section 4C is sufficiently wide to encompass various heads and components of income, including capital gains under Section 37A and the Eighth Schedule. By bringing such income within the fold of Section 4C(2)(i) and (iv), the Court reinforced that the levy is not confined to “taxable income” as computed under Section 4, but applies to a broader and specially constructed concept of income, further evidencing its independent nature.

20. Thus, the ratio decidendi of the Federal Constitutional Court is that the independence of Section 4C lies not merely in nomenclature, but in its constitutional foundation, statutory structure, and operational framework. It is a separate fiscal impost, enacted under a distinct charging command, capable of operating concurrently with the general income tax under Section 4, without being subsumed within it. This authoritative pronouncement, being binding, conclusively establishes that the super tax under Section 4C is not an extension or enhancement of the tax under Section 4, but an independent tax on income in its own right.

21. It is a well-established principle in international tax jurisprudence that a single taxpayer may be subject to multiple, concurrent levies on the same economic base, provided that each tax is enacted under a distinct legislative authority, has a separate charging provision, an independently defined computation base, and its own collection and enforcement mechanism. This principle safeguards both the legislative competence of the taxing authority and the predictability and legality of the tax system, ensuring that the taxpayer’s obligations are clearly defined and separable under law. The OECD Model Tax Convention and its commentary recognize that jurisdictions may impose multiple forms of taxation on income, profits, or capital, so long as each levy is independently authorized and administratively distinct, thereby maintaining the integrity of each fiscal instrument. For instance, in the United States, the Internal

Revenue Code (Title 26, U.S. Code) imposes a general federal income tax on all taxable income (IRC §§ 1, 11) while concurrently maintaining an Alternative Minimum Tax (AMT) (IRC §§ 55–59), which operates on a parallel computation method. The AMT targets high-income taxpayers to ensure a minimum level of tax liability, even if deductions and credits reduce ordinary income tax below a certain threshold. Each of these taxes, ordinary federal income tax and AMT, has distinct rules for computation, allowable deductions, and filing procedures, demonstrating that multiple levies on the same taxpayer are legally permissible when enacted independently and with separate operational mechanics. Similarly, in the United Kingdom, the income tax regime operates alongside National Insurance contributions, which, though calculated with reference to earnings, are a distinct fiscal obligation with their own statutory basis under the Social Security Contributions and Benefits Act, 1992. While income tax and National Insurance both target the individual's earnings, the two charges are conceptually and operationally distinct: income tax falls under general revenue legislation, whereas National Insurance is a social levy with dedicated funds and separate enforcement mechanisms. Moreover, OECD (Organization for Economic Co-operation and Development) guidance also supports this approach, noting that taxing authorities may levy concurrent taxes on income or capital, so long as each tax is legally independent, transparent in computation, and separately collected, with clear procedural safeguards. This principle prevents taxpayers from successfully conflating distinct statutory regimes under claims of double taxation within a single jurisdiction, while also ensuring that legislative objectives, such as redistributive or social policy aims, are not frustrated. Taken together, these illustrate a widely recognized international norm: the imposition of multiple taxes on the same taxpayer does not, in itself, violate principles of fairness or legality, provided that each levy is independently created, clearly defined, and administered under a distinct statutory scheme. Section 4C of the Income Tax Ordinance, 2001, reflects this principle precisely: it establishes a self-contained super tax on high earners, entirely separate from the general income tax under Section 4, with its own

defined base, rates, and procedural machinery, fully consistent with internationally accepted norms of multiple, concurrent taxation.

22. In the foregoing context, it becomes evident that the coexistence of Section 4 and Section 4C represents a deliberate legislative design, whereby the general tax on taxable income is supplemented by a distinct super tax on specified categories of income. Each provision operates in its own domain: Section 4 governs the computation and levy of ordinary income tax, while Section 4C imposes an additional charge, triggered by defined thresholds and calculated on a differently constructed base. The two provisions, though related in subject matter, are legally independent, and their respective liabilities arise from separate charging commands issued by the Legislature. Thus, on a plain, textual, and contextual interpretation of the Ordinance, it stands established that super tax under Section 4C is a tax on income in its own right, independent of, and in addition to, the tax levied under Section 4 of the Income Tax Ordinance, 2001.

23. At this stage, this Court considers it appropriate to address, in some depth, the contention advanced by the petitioner that the respondents are exercising “unbridled powers” in seeking to recover Super Tax without allowing adjustment of withholding taxes. It has further been asserted in paragraph 9 of the petition that respondent No. 4 intends to deny such adjustment by disregarding the provisions of Section 4C(3) of the Income Tax Ordinance, 2001, which, according to the petitioner, mandate the application of all provisions of Chapter X, thereby entitling the petitioner to claim adjustment of withholding taxes against its Super Tax liability.

24. Before embarking upon an analysis of the said contention, it would be advantageous to reproduce Section 4C(3) for ready reference:

“4C(3): The tax payable under sub-section (1) shall be paid, collected and deposited on the date and in the manner as specified in sub-section (1) of section 137 and all provisions of Chapter X of the Ordinance shall apply.”

25. At the very outset, it must be borne in mind that the constitutional validity of Section 4C, being a charging provision, already stands upheld by the competent constitutional forum. In such circumstances, the scope of judicial scrutiny is necessarily confined and circumscribed. This Court is not called upon to re-examine the wisdom, fairness, or desirability of the levy, nor to reconstruct its computational framework; rather, the inquiry is limited to determining whether the impugned actions of the respondents fall within the four corners of the statute. Any attempt to expand, curtail, or modify the statutory scheme under the guise of interpretation would amount to trenching upon the legislative domain, which is impermissible.

26. A plain, contextual, and purposive reading of Section 4C(3) leaves little room for doubt that the legislature has consciously adopted only the machinery and procedural apparatus necessary for the implementation and enforcement of Super Tax. The opening part of the provision unequivocally provides that the tax shall be “paid, collected and deposited” in the manner specified in Section 137(1). Section 137(1), in turn, deals exclusively with the mode, timing, and manner of payment of tax, and does not relate to the determination of liability or the grant of any credit or adjustment. The express incorporation of Section 137(1), therefore, is not incidental but deliberate, and it underscores the legislative intent to situate Section 4C within the existing procedural framework governing the collection of taxes, without altering the substantive contours of the levy.

27. The subsequent stipulation that “all provisions of Chapter X shall apply” must be construed in light of the same legislative intent. It is a well-established principle of statutory interpretation that where a provision incorporates another chapter or set of provisions, such incorporation is neither absolute nor indiscriminate; rather, it is contextual, qualified, and limited to the extent necessary to make the principal provision workable and effective. The Court must, therefore, read the words of incorporation harmoniously with the scheme, purpose, and subject matter of the charging provision, and not in a manner that

produces inconsistency or enlarges the scope of the statute beyond what has been expressly provided. Chapter X of the Ordinance, when examined as a whole, is predominantly concerned with the machinery of tax administration, including provisions relating to assessment, recovery, collection, enforcement, default, and ancillary matters. Its incorporation into Section 4C is thus intended to ensure that Super Tax is administered within the established procedural framework of the Ordinance, thereby avoiding the necessity of creating an entirely separate enforcement regime. However, nothing in the language of Section 4C(3) suggests that the legislature intended to import, in a wholesale manner, every substantive consequence that may arise under Chapter X, particularly those which have the effect of reducing or extinguishing the tax liability created by the charging provision.

28. It is, in this context, of critical importance to distinguish between procedural provisions and substantive rights. Procedural provisions regulate the manner in which a liability is assessed, enforced, and recovered; substantive rights, on the other hand, directly affect the existence or quantum of that liability. The right to claim adjustment or credit of taxes, especially withholding tax, is unequivocally a substantive right, as it operates to diminish the tax burden of the taxpayer. Such a right cannot be presumed, inferred, or implied from general words of incorporation; it must be grounded in clear, explicit, and unambiguous statutory language. This principle is deeply embedded in fiscal jurisprudence. It is trite that in taxation matters, nothing is to be read in, nothing is to be implied, and both the charge as well as any exemption, deduction or credit must be found strictly within the four corners of the statute. Any ambiguity or silence in this regard operates against the taxpayer claiming the benefit. Thus, in the absence of an express provision within Section 4C permitting adjustment of withholding taxes against Super Tax liability, no such entitlement can be judicially engrafted merely on the basis of a general reference to Chapter X. To hold otherwise would be to convert a procedural incorporation into a substantive grant, which the legislature has consciously refrained from making.

29. The petitioner's argument, if accepted, would lead to consequences that are both legally untenable and structurally disruptive. It would effectively blur the distinction between the normal income tax regime and the Super Tax regime, thereby allowing mechanisms designed for one to be transplanted into the other without legislative sanction. Such an approach would undermine the independent character of Section 4C, dilute the incidence of the levy, and frustrate the very object for which it was enacted. Courts have consistently cautioned against interpretations which render a statutory provision otiose, redundant, or incapable of achieving its intended purpose.

30. Furthermore, the submission that the respondents are exercising "unbridled powers" is wholly misconceived. The powers exercised by the tax authorities are neither unguided nor arbitrary; they are strictly regulated by the statutory framework of the Ordinance, which provides detailed provisions for assessment, adjudication, rectification, and appellate review. The mere fact that the statute does not provide for a particular adjustment cannot be equated with arbitrariness or excess of jurisdiction. On the contrary, it reflects a conscious legislative choice, which this Court is bound to respect and give effect to.

31. It is also pertinent to observe that the petitioner's contention, though ostensibly framed as a challenge to the manner of exercise of power, in substance seeks to achieve what it does not directly assert namely, the modification of the statutory scheme governing Super Tax. This Court cannot, under the guise of interpretation, supply a casus omissus, nor can it read into the statute a provision which the legislature has deliberately omitted. To do so would amount to judicial legislation, this lies beyond the permissible limits of constitutional adjudication.

32. In view of the foregoing analysis, this Court finds that Section 4C(3) does not, either expressly or by necessary implication, confer any right upon the petitioner to claim adjustment of withholding taxes against its liability under Section 4C. The provision merely incorporates the procedural machinery of Chapter X for purposes of collection and enforcement, and does not alter the

substantive nature or incidence of the levy. The reliance placed by the petitioner on the said provision is, therefore, entirely misplaced.

33. It is of critical significance to note that the controversy raised in the present petition is not *res integra*. The petitioner had previously advanced an identical claim in Writ Petition No. 4359 of 2022, titled *CMPak LDI Limited v. Federation of Pakistan*, wherein the Hon'ble Federal Constitutional Court, vide judgment dated 28.01.2026, set aside the earlier judgment of this Court dated 20.07.2023 and expressly declined the relief sought. This prior adjudication, rendered by the apex constitutional forum, constitutes a binding and conclusive determination of the issue presently sought to be re-agitated. In view of the aforesaid authoritative pronouncement, the present petition is, in substance, an attempt to re-open and re-litigate a matter that already stands finally decided. It is a settled principle of law that issues which have attained finality at the hands of a competent constitutional court cannot be permitted to be revived through fresh proceedings framed under a different legal garb. The doctrine of finality of litigation, read together with the principle that there must be an end to judicial disputes, squarely operates as a bar against the maintainability of the instant petition.

34. It is a fundamental tenet of law that what cannot be achieved directly cannot be permitted to be accomplished indirectly. Where a specific relief has been sought under a statutory provision and has been declined by the Apex court of final jurisdiction, it is not open to the litigant to circumvent that determination by resorting to collateral or alternative proceedings. Any such attempt would amount to an abuse of the process of the Court and would undermine the authority of the binding judicial pronouncement.

35. In this backdrop, the petitioner's present attempt to seek adjustment or credit of taxes by invoking general procedural provisions, including those contained in Chapter X of the Ordinance amounts, in effect, to securing indirectly the very relief which has already been refused on merits. Such an approach is legally impermissible. Once a statute has been upheld as valid and

enforceable, courts are not at liberty to interpret its provisions in a manner that would dilute, defeat, or render nugatory the legislative intent. Section 4C, being a self-contained and standalone levy, must be given full effect in accordance with its plain terms. Any interpretation permitting adjustment in the absence of explicit statutory authorization would amount to judicial legislation.

36. In view of the foregoing discussion, this Court is of the considered opinion that the levy of Super Tax under Section 4C of the Income Tax Ordinance, 2001 constitutes a distinct and independent charge on income, separate from the tax imposed under Section 4 of the Ordinance. It has further been held that no right of adjustment of withholding taxes against the liability arising under Section 4C can be claimed in the absence of an express statutory provision to that effect, and that the incorporation of Chapter X through Section 4C(3) is confined to procedural and machinery aspects only. Moreover, the controversy raised by the petitioner already stands conclusively determined by the Hon'ble Federal Constitutional Court, and the present petition amounts to an impermissible attempt to re-agitate an issue that has attained finality. Consequently, finding no merit in the petitions, the same are hereby **DISMISSED**, with no order as to cost.

37. Before parting with this judgment, and as a matter of judicial propriety, it may be observed that, in the peculiar facts and circumstances of the present case, this Court, while taking a lenient view, restrains itself from imposing costs upon the petitioner company for having invoked the constitutional jurisdiction of this Court on a matter which already stands conclusively settled by the Hon'ble Federal Constitutional Court of Pakistan. It is an established principle that access to justice and the right to approach a court of law constitute fundamental rights guaranteed to every citizen. However, such right is not unqualified or unfettered; rather, it carries with it a corresponding obligation to invoke judicial remedies in a responsible, bona fide, and diligent manner. The filing of petitions on issues which have already been authoritatively adjudicated by the apex constitutional forum not only amounts to an unnecessary invocation of judicial

process but also undermines the principle of finality attached to binding judicial pronouncements. This Court cannot lose sight of the fact that judicial time is a scarce and valuable public resource. Entertaining and adjudicating repetitive or settled controversies inevitably diverts attention from other deserving litigants whose grievances await resolution. Such practices, if left unchecked, contribute to avoidable delays in the administration of justice and impede the efficient functioning of the judicial system. Nevertheless, considering that the petitioner has sought to assert its perceived legal rights, this Court, in the interest of justice, opts to exercise restraint and refrains from imposing any pecuniary burden. However, it is expected that, in future, litigants shall exercise due diligence and circumspection before re-agitating issues that have already attained finality through binding judicial determinations.

(INAAM AMEEN MINHAS)
JUDGE

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid

APPROVED FOR REPORTING
BLUE SLIP ADDED