JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Sales Tax Reference No. 01/2015

M/s OMV (Pakistan) Exploration G.M.B.H, Islamabad, through its Authorized Representative
Vs.
Commissioner Inland Revenue (Legal), Islamabad & others

APPLICANTS BY:	Hafiz Muhammad Idris and Syed Farid Bukhari, Advocates in S.T.R. No.01 of 2015.
	Mr. Osama Shahid, Advocate in S.T.Rs. No. 20/2015, 11/2016 and 28/2016.
	Dr. Farhat Zafar, Advocate in S.T.Rs. No. 11, 12, 13, 15, 16 and 35 of 2015.
	Mr. Hassan Ali Khan, Advocate in S.T.R. No. 45/2015
	Mr. Ali Nawaz Kharal, Advocate in S.T.R. No. 34/2015 and 33/2019.
	Syed Muhammad Abbas, Advocate for appellant in ICA No. 431/2016.
RESPONDENTS BY:	Mr. Makhdoom Ali Khan, Sr. ASC, Khawaja Aizaz Ahsan and Mr. Hashim Khalil, Advocates in ICA 431/2016.
	Mr. Osama Shahid, Advocate in S.T.R. No.01 of 2015.
	Mr. Wasim Abid, Advocate in S.T.Rs. No. 11, 12 and 13 of 2015.
	Mr. Shaheer Bin Tahir, Advocate in S.T.R No. 33/2019.
	Syed Ali Murtaza Abbas, Advocate in S.T.R No. 11/2016.
	Mr. Sarmad Munir, Advocate in S.T.R. No. 35/2015.
DATES OF HEARING:	24.09.2025

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BABAR SATTAR, J.- Through this judgment we will decide the afore-titled Sales Tax Reference as well as Sales Tax References and Intra Court Appeal listed in Annexure-A to this

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judgment as an identical question of law arises in all these matters.

2. The question that arises in these matters is whether a taxpayer can be denied input tax credit in exercise of authority under Section 8(1)(ca) of the Sales Tax Act, 1990 **("Sales Tax Act")**, which has been paid while undertaking a transaction in compliance with the requirements of Section 73 of the Sales Tax Act, because the supplier has been delinquent in depositing such sales tax in the government treasury. This question has arisen from conflicting judgments of the Appellate Tribunal Inland Revenue **("Tribunal")**. The taxpayers are aggrieved by judgments where denial of input tax adjustment has been upheld by the Tribunal in view of Section 8(1)(ca) of the Sales Tax Act. And the tax department is aggrieved by the judgment of the Tribunal where the denial of adjustment of input tax has been set aside by holding that Section 8(1)(ca) of the Sales Tax Act is to be read along with Sections 8A and 73 of the Sales Tax Act and not in isolation.

3. We will briefly summarize the key arguments of the learned counsels for the contesting parties, who were invited to make written submissions, which they did, and such submissions form part of the record. The taxpayers' primary contention was that Section 8(1)(ca) of the Sales Tax Act was declared *ultra vires* the Constitution by the Lahore High Court in ***D.G. Khan Cement Company Ltd. v. Federation of Pakistan (PLD 2013 Lahore 693)***, and consequently, no demand could have been generated on the basis of such provision. It was further submitted that the Sindh High Court in ***Total Parco Pakistan Ltd. v. Pakistan (PTCL 2021 CL 576)*** held that Section

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8(1)(ca) of the Sales Tax Act was to be read down and harmoniously interpreted along with Sections 8A and 73 of the Sales Tax Act, and that it was only where the requirements of Section 8A were satisfied that input tax adjustment could be denied in exercise of authority under Section 8(1)(ca) of the Sales Tax Act. The taxpayers argued that in the matter of ***Commissioner Inland Revenue v. M/s Gadoon Textile Mills, Swabi*** (***C.P. Nos. 1830 to 1847/2022)***, by judgment dated 04.7.2022, the Supreme Court upheld the decision of Peshawar High Court wherein it had been held that where a taxpayer had deposited the requisite sales tax at the time of a purchase, in compliance with requirements of Section 73 of the Sales Tax Act, the liability to deposit such sales tax rested with the supplier and could not be transferred to the shoulders of the taxpayer by denying such taxpayer the benefit of input tax adjustment under Section 8(1)(ca) of the Sales Tax Act.

4. The tax department, on the other hand, primarily contended that Sections 7 and 8 of the Sales Tax Act were not charging sections and constituted machinery provisions for purposes of assessment of sales tax liability and were to be interpreted in order to facilitate the collection of tax. It was argued that the facility to deduct input tax paid by a taxpayer from the output tax payable in terms of Section 7(1) of the Sales Tax Act was subject to the requirements of Section 8 of the Sales Tax Act, which included a non-obstante clause. It was submitted that Section 8 of the Sales Tax Act vested in the State the power to deny input tax adjustment. And where the conditions prescribed in Section 8 for denying input tax adjustment existed, a taxpayer was not entitled to claim input

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tax adjustment in breach of such conditions. It was submitted that the opinion of the Lahore High Court in ***D.G. Khan Cement*** was not accepted by the Sindh High Court in ***Total Parco Pakistan***, which held that Section 8(1)(ca) of the Sales Tax Act ought not to be declared *ultra vires* the Constitution and should be harmoniously read with other provisions of the Sales Tax Act. If this view were accepted, Section 8(1)(ca) of the Sales Tax Act was to be read with Section 8A of the Sales Tax Act, and a taxpayer would therefore be under an obligation to satisfy the tax department that it had no knowledge of the non-payment of sales tax by the supplier. Consequently, in view in ***Total Parco Pakistan***, these matters ought to be remanded to the assessing officer to undertake an exercise in terms of Section 8A of the Sales Tax Act to determine whether or not the taxpayers had knowledge of the fact that their suppliers had failed to deposit sales tax received in relation to the supplies made.

5. Given that the question that arises in the instant matter has squarely been addressed by the Lahore High Court, the Sindh High Court and the Peshawar High Court, let us first consider the relevant judgments.

6. In ***D. G. Khan Cement,*** the Lahore High Court treated the input tax paid by a taxpayer to its supplier as property of the taxpayer and proceeded to then consider whether denying the benefit of such entitlement or property in exercise of authority under Section 8(1)(ca) of the Sales Tax Act could pass the test of reasonable restriction imposed by law in view of Articles 23 and 24 of the Constitution. The Lahore High Court noted that Section 8(1) of the Sales Tax Act listed various circumstances in which deduction of input tax was to be disallowed and one such

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circumstance, as mentioned in Section 8(1)(ca) of the Sales Tax Act, was, *"the non-deposit of tax in the government treasury by the supplier for no fault of the buyer and in the absence of any allegation of collusion between the buyer and the seller."* The Lahore High Court noted that, *"once payment is made to the buyer through proper banking channel, as provided under the Act, the buyer has no control over the supplier. Buyer has no means to police the supplier to ensure that the payment made is also duly deposited in the government exchequer."* It was held that, *"[I]nput tax is the property of the buyer which is paid to the supplier so that the same can be deducted at the time of supply of goods by the buyer. Any sub-constitutional limitation restricting a buyer from deducting input tax from output tax impinges on the right to property (input tax) guaranteed to the taxpayer under the Constitution (Articles 23 and 24) and must successfully filter through the test of constitutionality."* The Lahore High Court went on to hold that Section 8(1)(ca) did not pass such test. It held that, *"every person has a separate legal character enjoying distinct rights and liabilities under the law. To impose the liability of one over the other is opposed to basic fundamentals of law and offends due process, logic and rationality. Section 8(1)(ca) axes an innocent person for the wrong of the other. It diminishes the legal character of a person under the law as if implying that every person is the agent of the other. This assumption also negates free and fair competition in a market economy. Section 8(1)(ca), therefore, does not advance any public interest or passes the test of proportionality as discussed above. In fact the said provision is illogical, absurd and unreasonable."* It was accordingly held that Section 8(1)(ca)

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of the Sales Tax Act was ultra vires the right to due process and fell afoul Articles 23 and 24 of the Constitution.

7. The same question came before the Sindh High Court in ***Total Parco Pakistan***. The Sindh High Court noted that when taxpayers purchased goods from suppliers who were on the Federal Board of Revenue's Active Taxpayers List, and made payments including the amount of sales tax involved, in compliance with the requirements of Section 73 of the Sales Tax Act, the denial of input tax adjustment in terms of Section 8(1)(ca) of the Sales Tax Act could only result from reading such provision in isolation. The Sindh High Court applied the theory of reading down statutory text as a rule of interpretation to save Section 8(1)(ca) of the Sales Tax Act from being declared unconstitutional. It held that Section 8(1)(ca) was to be read along with Sections 8A and 73 of the Sales Tax Act, such that the culpability of the taxpayer was to be first established in terms of Section 8A of the Sales Tax Act before denying such taxpayer the benefit of input tax adjustment in terms of Section 8(1)(ca) of the Sales Tax Act. Let us reproduce below the reasoning of the Sindh High Court in relevant part:

> *"Section 8 and its non-obstante clause have to be read along with section 8A. It is in respect of joint and several liability of registered persons in a supply chain where tax is unpaid and provides that where a registered person receiving a taxable supply (petitioners herein) from another registered person (Supplier) is in the knowledge or has reasonable grounds to suspect that some, or all of the tax payable in respect of that supply or any previous or subsequent supply of the goods supplied would go unpaid, of which the burden to prove shall lie on the department such person as well as the person making the taxable supply shall be jointly and severally liable for payment of such unpaid amount of tax. It is of utmost importance to appreciate that Section 8(1)(ca) and Section*

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8A, both were introduced in the Act at the same time through Finance Act 2006 and when both these provisions are read in juxtaposition, it appears that they have nexus with each other and neither can be read in isolation; nor it would be appropriate to apply them in isolation to each other. The intent and purpose appears to be the same. Both relate to the same transaction of disallowing an input tax adjustment on goods or services on which tax remains due or unpaid. It is not in dispute that the petitioners have paid such tax to the supplier. In that case first it has to be determined and for which the onus is on the department that the petitioners are at fault or have remain negligent with conscious knowledge."

8. The Sindh High Court further held that the legislative intent behind Sections 8(1)(ca) and 8A of the Sales Tax Act read together was that only where a taxpayer had knowledge or reasonable grounds to suspect that sales tax paid to a supplier would not be deposited with the treasury, the burden to establish which was on the tax department, the consequences of Section 8(1)(ca) of the Sales Tax Act would flow to the taxpayer having paid input tax. The Sindh High Court observed that the scheme requiring a purchaser to pay sales tax to a supplier was prescribed by the Sales Tax Act and consequently the supplier receiving sales tax from a purchaser, which was to be treated as input tax by the purchaser, was duly authorized to do so on behalf of the tax department as a registered person. The Sindh High Court consequently held that a receipt issued by a supplier to the purchaser reflecting payment of consideration for such supplies along with the sales tax due amounted to confirmation that the liability to pay the sales tax at the time of purchase had been discharged. The Sindh High Court held that, *"it is a receipt of tax issued by the supplier on behalf of the State, as he has been permitted to do so. It becomes the input tax claim or the*

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property of the purchaser, once he has complied with the relevant conditions and restrictions prescribed under the Act or any Rules thereunder while making payment of the same. In the instant matter there are two requirements which the petitioner has to fulfill i.e. the supplier should be available as an active taxpayer on the list so issued by FBR; and secondly, while making payment the condition/restriction, if any, of section 73 of the Act has to be complied with." After applying the principle of reading down statutory text that seems to offend a fundamental right, the Sindh High Court held in relation to Section 8(1)(ca) of the Sales Tax Act that, *"we would rather save it and read it down, in the manner, that it cannot be invoked or applied independently in isolation and has to be read with Section 8A; and can only be invoked against the petitioners, once an exercise has been carried out and a conclusive finding has been arrived at against them pursuant to Section 8A of the Act."*

9. It was held by the Supreme Court in ***Gadoon Textile Mills***, while upholding the judgment of Peshawar High Court ruling on the applicability of Section 8(1)(ca) of Sales Tax Act, that a taxpayer could not be denied his entitlement to claim refund of sales tax in exercise of authority under Section 8(1)(ca) of the Sales Tax Act where the taxpayer had satisfied the requisite steps of paying the dues on the supply received, including sales tax through a cross cheque. The Supreme Court held that, *"in the absence of any official notification in the display by the petitioner's [FBR] software, the respondent [taxpayer] had no means of establishing whether the sales tax on the supply made by the supplier and recovered from the respondent had been deposited or not. The record is also silent*

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in this respect. Consequently, the petitioner did not have a cause of action against the respondent and its remedy lay against the supplier of the goods. The petitioner-authority appears to have taken no action against the defaulting supplier. For all these reasons, we consider that to burden the respondent buyer of goods with the liability of its supplier which is also a registered person actually [is] tantamount to transferring the responsibility of recovery of sales tax from the petitioner which has failed to take any action, to the respondent. The respondent cannot be punished for the neglect of the petitioner-authority."

10. In ***Commissioner Inland Revenue Zone-IV, Large Taxpayer Unit, Karachi v. Messrs Al-Abid Silk Mills Ltd., Karachi (2023 PTD 1492)***, the matter before the Supreme Court related to denial of input tax adjustment under Section 8(1)(ca) of the Sales Tax Act on the ground that such adjustment was sought on the basis of fake and flying invoices issued by suppliers. The Supreme Court delineated the scheme of the Sales Tax Act while emphasizing that it was for the tax department to establish liability on the part of the taxpayer as opposed to requiring the taxpayer to prove its innocence. The Supreme Court held that, *"the concept of reverse onus i.e. placing the burden on the person against whom an allegation has been made runs contrary to the established principle of presumption of innocence. It is therefore, for this reason that Courts lean in favour of interpreting or reading down such provision in an effort to safeguard the fundamental principles of fair trial… The proceedings before the adjudicating authority or the statutory appellate forum under the Act of 1990 are quasi-judicial in nature. When the department alleges that a registered*

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person is liable to make the payment of tax and the same has not been levied or charged, the former is burdened with a statutory duty to establish before the adjudicating forum, through persuasive and proper evidence, that the allegations are highly probable to be true, rather than being unreliable, false or doubtful. The duty to establish facts on the standard of balance of probabilities is on the department under the Act of 1990." In the matter at hand, the purchaser had been asked by the tax department to establish that its suppliers had made supplies and had deposited the output tax in the government treasury. The Supreme Court disapproved the tax department's refusal to adjust input tax and held that, *"the onus was on the Department to first establish that the eight suppliers had not made actual supplies and, thus, the invoices against which the input was claimed were fake/flying invoices. Moreover, it was the Department's responsibility to verify whether or not the eight entities had deposited the sales tax in the government treasury relating to the invoices against which the taxpayer had claimed input tax."*

11. In ***The Commissioner Inland Revenue, Lahore vs. M/s Eagle Cables (Pvt.) Ltd., Lahore*** ***(C.P.L.A 2400-L/2022)***, the matter before the Supreme Court related to the tax department's allegation that the taxpayer had violated Section 8(1)(d) of the Sales Tax Act. The Supreme Court, in its judgment dated 16.01.2025, held that the tax department had failed to establish that the invoices on the basis of which input tax adjustment had been claimed were issued during a period when the suppliers were either blacklisted or inactive. The Supreme Court held that, *"the payments for these purchases*

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were processed through a legitimate banking channel, adhering to the procedures delineated in section 73 of the Act. It is now well established in legal precedents that if a transaction is conducted while the suppliers are active and duly registered, any invoices issued are not automatically invalidated by a subsequent blacklisting or suspension of those suppliers. Therefore, it follows that the denial of refunds cannot be justified solely based on the later blacklisting of a supplier. In light of this context, according to sub-section (3) of Section 21, all purchasers, including the respondent, who procured goods before the suppliers' registration was suspended or they were blacklisted, and who complied with the conditions outlined in section 73 of the Act, were entitled to claim an adjustment of input tax."

12. In ***The Commissioner Inland Revenue, Legal Zone, Large Taxpayers Office, Lahore and another vs. Messrs Mayfair Spinning Mills Ltd. and others* (2025 SCMR 01)**, the taxpayer had sought a refund after adjusting the input tax paid for the relevant period. The question before the Supreme Court was whether input tax claimed/deducted under Section 7 of the Sales Tax Act could be adjusted in respect of goods which were destroyed by fire. While answering the question in the affirmative, the Supreme Court explained the conditions prescribed by Section 7 of the Sales Tax Act for purposes of seeking input tax adjustment as follows:

> *"Firstly, the input tax paid on purchases of inputs or raw materials must be intended for the purpose of making taxable supplies.*

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> *Secondly, the input tax paid must be for producing taxable supplies, irrespective of whether those taxable supplies have actually been made or are to be made in the future.*
>
> *Thirdly, the input tax paid in a tax period is to be deducted from the output tax due for the same tax period and not against any future tax period."*

The Supreme Court noted that where the conditions prescribed in Section 7 of the Sales Tax Act were satisfied, the registered person was entitled to avail the beneficial adjustment facility provided under Section 7 of the Sales Tax Act.

13. The nature of sales tax, being a value added tax, was explained by the Sindh High Court in ***Pakistan Beverages Ltd. vs. Large Taxpayers Unit (2010 PTD 2673)*** as follows:

> *"The first point to keep in mind is that the Sales Tax Act as currently in force is a value added tax, or VAT. When sales tax is levied in VAT mode, it is charged at each stage in the supply chain as the goods move from the point of origin to the ultimate destination. At each stage, the sales tax is paid on the value added by the supplier concerned. This is done by taking the sales tax charged by the supplier for the goods sold by him (known as the output tax) and subtracting from it the sales tax paid by him for the goods purchased by him (known as the input tax). If the difference (i.e., output tax minus input tax) is positive over the relevant tax period, i.e., the output tax is more than the input tax, that means that the supplier has to pay the difference to the State. If the difference is negative (i.e., output tax is less than input tax), then the supplier is entitled to a refund of this amount, or its adjustment in the next tax period(s). It will also be noted that in respect of each transaction, other than the first and the last, the sales tax involved has a dual characteristic. For the person making the supply (i.e., the seller) it is his output tax. For the person acquiring the goods (i.e., the buyer) it is his input tax. These are but two sides of the same transaction."*

14. While considering what constitutes sales tax fraud in ***Waseem Ahmed and another vs. Federation of Pakistan***

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through Chairman and 4 others (2014 PTD 1733), the Sindh High Court emphasized that it was essential for the tax department to establish that the taxpayer was directly involved in the transaction in which sales tax fraud transpired, and liability could not be attributed to a taxpayer for being complicit in sales tax fraud merely because such fraud had taken place at some point in the supply chain through which the taxpayer acquired goods. The Sindh High Court noted that, *"simply because tax fraud has occurred in a given "block" that does not in and of itself mean that all the suppliers comprising the "block" are complicit."* It further noted that the tax department appeared to be, *"under the misapprehension that once a tax fraud has occurred on a supply chain (whether in one or more successive "blocks"), then all suppliers on that supply chain are culpable, i.e., have "benefited" from the fraud… As has been explained above, the supply chain cannot be "jumped". As one moves along the supply chain (to emphasize: "link" by "link", taking up each "block", successively), as soon as an innocent supplier is reached, the nexus with the suppliers committing the tax fraud is broken and this is so even if such supplier is "linked" to one who is part of the fraud. All subsequent (or antecedent, as the case may be) suppliers on the supply chain are innocent."*

15. What has been emphasized in the judgments cited above is a fundamental principle of justice: *nemo pro alterius facto punietur* (no one should be punished for the deed of another). Sections 7 and 8 of the Sales Tax Act, when read together, create a framework within which sales tax liability is assessed and paid in VAT mode, where a purchaser at the time of making payment for a supply is required to include within the

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consideration for such supply the sales tax liable to be paid by the supplier, which becomes the output tax of the supplier and the input tax of the purchaser. Where conditions prescribed by Section 7 for purposes of input tax adjustment are satisfied and payment for such supply has been made in compliance with the requirements of Section 73 of the Sales Tax Act, the purchaser is entitled to seek input tax adjustment unless the same is prohibited by Section 8 of the Sales Tax Act.

16. The power of the State to declare where tax credit for input tax paid shall not be allowed, in terms of Section 8 of the Sales Tax Act, is not in dispute. The question before us is the manner in which such power can be exercised by the state, such that it does not interfere with the fundamental rights guaranteed by the Constitution, including the right to due process, property and equality. It is in this context that the question of prerequisites for, and timing of, the application of Section 8(1)(ca) of the Sales Tax Act arises in a scenario where a purchaser has complied with its obligations under provisions of the Sales Tax Act to pay input tax while making purchases, but is subsequently denied the adjustment of the input tax paid on the basis that the supplier, who received such payment as part of the consideration for the supplies made, failed to deposit the same in the government treasury. In such circumstances, the delinquency lies on part of the supplier, who has received the sales tax paid by the purchaser on behalf of the state, and not on part of the purchaser, who has no legal means to control the actions of the supplier or to force the supplier to deposit in the treasury the sales tax paid by the purchaser.

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17. This Court therefore agrees with the analysis of the Lahore High Court in ***D. G. Khan Cement***, as well as that of the Sindh High Court in ***Total Parco Pakistan***, that the application of Section 8(1)(ca) of the Sales Tax Act in denying input tax adjustment to a purchaser, who satisfies the requirements of Section 7 and has discharged its legal obligation to pay input tax while making a payment for purchases in accordance with the requirements of Section 73 of the Sales Tax Act, would be violative of the taxpayer's right to property and equality guaranteed by Articles 23 and 24 of the Constitution, if the taxpayer was punished for the delinquency of the supplier and penalized for no fault of his own. Such application of Section 8(1)(ca) would be arbitrary, discriminatory and in breach of Article 25 of the Constitution. Our system of rule of law is based on individual responsibility and liability and no one can be made to suffer due to the actions of another. Consider two purchasers, A and B, who receive supplies from supplier C. Both A and B satisfy the requirements of Sections 7 and 73 of the Sales Tax Act in making purchases. C deposits the sales tax received as part of consideration paid by B in the treasury, but fails to do so in relation to the sales tax paid by A. The tax department, instead of chasing after C, who as a registered person is on FBR's active taxpayer list, attributes liability to A and asks it to repay sales tax in lieu of the stage of value addition attributable to C, which A has already paid once, as part of the consideration paid to C. Such action would be arbitrary on part of the tax department, and would be discriminatory when it comes to A, and would vex A, when B, a similarly placed competitor, has not been so vexed. Such application of Section 8(1)(ca) would thus fall afoul of the guarantee of Article 25 of the Constitution.

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18. In terms of the consequence of such analysis, this Court agrees with the approach taken by the Sindh High Court in ***Total Parco Pakistan***, wherein it has been held that Section 8(1)(ca) of the Sales Tax Act is to be read along with Sections 8A of the Sales Tax Act. Only after it has been established by the tax department, in terms of the test laid down by the Supreme Court in ***Al-Abid Silk Mills***, that a taxpayer had knowledge or reasonable grounds to suspect that the input tax being paid to a supplier would not be deposited in the treasury, can liability be attributed to such taxpayer. Consequently, where a case in terms of Section 8A of the Sales Tax Act has been made out by the tax department on a balance of probabilities, the burden of establishing which lies with the tax department, can Section 8(1)(ca) of the Sales Tax Act be invoked to deny input tax adjustment to a taxpayer.

19. This approach of harmoniously interpreting the provisions of the Sales Tax Act and reading down the effect of Section 8(1)(ca) of the Sales Tax Act if applied in isolation is in consonance with the principles of statutory interpretation emphasized by the Supreme Court in ***Lahore Development Authority through D.G. and others v. Ms. Imrana Tiwana and others (2025 SCMR 1739)***, wherein it was noted that, *"where more than one interpretation is possible, one of which would make the law valid and the other void, the court must prefer the interpretation which favors validity."* By applying the principle of harmonious interpretation and holding that Section 8(1)(ca) of the Sales Tax Act is to be read along with Section 8A of the Sales Tax Act, and to be given effect where the culpability of a taxpayer is made out in terms of Section 8A of the Sales Tax

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Act, the Sindh High Court adopted an interpretation that had the effect of saving Section 8(1)(ca) of the Sales Tax Act from being declared ultra vires the Constitution. We are of the view that this was the correct approach in interpreting Section 8(1)(ca) of the Sales Tax Act.

20. In interpreting Section 7, 8, 8A and 73 of the Sales Tax Act, the following is to be borne in mind:

(i) Our system of rule of law is based on individual responsibility and liability, and a taxpayer cannot be made to suffer due to the delinquency of another, unless the taxpayer is complicit in such wrongdoing;

(ii) Sales tax is charged in VAT mode and where a purchaser has paid the tax due for the value addition attributable to a supplier, as part of consideration for the supply paid in accordance with requirements of Section 73, it cannot be assumed that the legislature intended to subject such purchaser to double-taxation for the supplier's failure to deposit the sales tax received from the purchaser in the treasury;

(iii) The purchaser, in paying input tax to the supplier as part of consideration for supply, acts in accordance with requirements imposed by provisions of the Sales Tax Act, and where the supplier, who receives such sales tax payment as an agent on behalf of the state, fails to deposit the same with the treasury, it is the supplier that is at fault and ought to be penalized by the tax department and not the purchaser;

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(iv) Once a purchaser discharges its obligation to pay input tax to a supplier in the manner prescribed by law, there accrues a proprietary entitlement to benefit from such tax payment by seeking its adjustment against output tax due from him, when not otherwise prohibited by Section 8, and such entitlement cannot be denied due to any wrongdoing or delinquency on part of the supplier that the purchaser is neither complicit with nor has any control over.

(v) A contrary interpretation of Sections 8(1)(ca) and 8A of the Sales Tax Act would be in breach of Articles 4, 10A, 23, 24 and 25 of the Constitution.

21. We decide the question of law before us accordingly. Let a copy of this judgment be sent to the Registrar of the Tribunal under the seal of this Court.

(SARDAR EJAZ ISHAQ KHAN)
JUDGE

(BABAR SATTAR)
JUDGE

Announced in the open Court on **05.12.2025.**

JUDGE **JUDGE**

Approved for Reporting

A. Rahman Abbasi

Islamabad High Court

Annexure-A

Sr. No.	Number	Titled
01	Sales Tax Reference No.11 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s Islamabad Club, Islamabad
02	Sales Tax Reference No.12 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s Islamabad Club, Islamabad
03	Sales Tax Reference No.13 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s Islamabad Club, Islamabad
04	Sales Tax Reference No.15 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s AAR & Co., Islamabad
05	Sales Tax Reference No.16 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s AAR & Co., Islamabad
06	Sales Tax Reference No.20 of 2015	Commissioner Inland Revenue, Islamabad vs. M/s Extreme Engineering Solution, Islamabad
07	Sales Tax Reference No.34 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s Techaccess Pakistan (Pvt.) Ltd., Islamabad
08	Sales Tax Reference No.35 of 2015	Commissioner Inland Revenue (Legal Division), Islamabad vs. M/s Khushhali Bank Ltd., Islamabad
09	Sales Tax Reference No.45 of 2015	Commissioner Inland Revenue, Islamabad vs. M/s Telenor Pakistan (Pvt.) Ltd.
10	Sales Tax Reference No.11 of 2016	Commissioner Inland Revenue, Islamabad vs. M/s Computer Super Market, Islamabad
11	Sales Tax Reference No.28 of 2016	Commissioner Inland Revenue, Islamabad vs. M/s Novelty Marketing Service, Rawalpindi
12	Intra Court Appeal No.431 of 2016	Commissioner Inland Revenue, Islamabad vs. Pakistan Telecommunication Company Limited, Islamabad
13	Sales Tax Reference No.33 of 2019	Commissioner Inland Revenue, Islamabad vs. M/s Air Blue Limited, Islamabad

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