

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 453 & 558 of 2024
ITRA 218 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection No.10 & 27
2. For orders on CMA No.3708/2024
3. For hearing of main case

07.05.2026

Mr. Faheem Raza Khuhro, advocate for the applicant in ITRA 453 of 2024

Messrs. Muhammad Aleem and Naseer Ahmed Abbasi, advocate for respondent ITRA 453 of 2024

Messrs. Abdul Rahim Lakhani, Atta Muhammad Qureshi, Suneel Ali Memon, advocates for the applicant in ITRA 558 of 2024

Mr Ghazi Khan Khali advocate for respondent in ITRA 558 of 2024 and for the applicant in ITRA 218 of 2025

Messrs. Asim Bin Majeed, Aftab Ali and Kumail Abbas, advocates

It is jointly stated that the question before the court in these references is as follows:

"Whether, under the facts and circumstances of the case, the Commissioner-IR (Appeals) has erred in characterizing section 100D as a special provision with overriding effect, thereby excluding the applicability of the liability to tax under section 4C, despite the absence of a clear legislative intent to displace general provisions in the instant factual and legal context?"

The issue of super tax has been conclusively decided by the honourable Federal Constitution Court of Pakistan vide judgment dated 27.01.2026, passed in the case of DG Khan Cement Company Limited and another vs. The Federation of Pakistan thr. Secretary Revenue Islamabad and others (CA No.1243/2020) and connected matters. Perusal of the judgment demonstrates no discernible benefit to the taxpayer insofar as question raised is concerned.

Learned counsel for the taxpayer places reliance on paragraph 94 of the judgment cited supra, which reads as follows:

94. The Fifth Schedule to the ITO 2001 constitutes a self contained regime for the taxation of petroleum companies. Rule 1 defines "petroleum income" as the profits and gains derived by a petroleum company from its petroleum operations in Pakistan under a PCA, broadly, activities relating to the exploration, development and production of petroleum in the concession area. The income so arising is computed within the Fifth Schedule's own framework, which departs from the general rules of the ITO 2001.

Respectfully, reliance cannot be sustained as the exemption carved out by the honourable Federal Constitution Court of Pakistan is only with respect to the 5th Schedule and there is no room for any interpretation embellishment or extension thereof unless expressly stated by the Court itself.

In *mutatis mutandis* application of the aforementioned judgment the question framed for determination is answered in favour of the exchequer department and against the taxpayer. These references are disposed of accordingly.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal, as required per section 133(8) of the Income Tax Ordinance, 2001. Office is instructed to place copy of this order in connected matters.

Judge

Judge

Amjad