

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

ITRA 195 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection No.4, 27 & 30
2. For orders on CMA No.1676/2024
3. For hearing of main case

18.05.2026

Mr. Faheem Raza Khuhro, advocate for the applicant

Mr. Anwer Kashif Mumtaz advocate files vakalatnama on behalf of respondent which is taken on record.

Following questions of law had been proposed for determination :

1. Whether on the facts and circumstances of the case, the learned Appellate Tribunal Inland Revenue (ATIR) was justified to annul the order passed under section 4C of the Income Tax Ordinance, 2001 by holding that super tax is payable / chargeable for the year 2023 and not retrospectively for the year 2022, when the legislature with clear and expres intent stated in the law that super tax under section 4C shall be payable for the year 2022?
2. Whether on the facts and circumstances of the case, the learned Appellate Tribunal Inland Revenue (ATIR) was justified to annul the order passed under section 4C of the Income Tax Ordinance, 2001 by holding that super tax is payable / chargeable for the year 2023 and not retrospectively for the year 2022, when the intent of the legislature has been endorsed by Supreme Court through interim judgment in CP 3825 and 3909 of 2022, 126-K to 131-K, 167-K to 193-K of 2023 dated 16.02.2023?

It is jointly submitted that identical matters have been disposed of by this court *inter alia* vide order dated 07.05.2026 passed in ITRA 295 of 2023 and connected matters; same reads as follows:

“It is stated that the question before the court in these references was “whether super tax could the imposed with retrospective effect”. It is contended that the issue had been decided by the learned Tribunal in pursuance with the judgment of this Court in the case of Shell Pakistan Limited reported as 2023 PTD 607, and it was concluded that retrospectivity was not to be sustained.

It is stated that vide judgment dated 27.01.2026 passed by the honourable Federal Constitution Court of Pakistan 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, the learned Federal Constitution Court has decided to the contrary and adjudged that the respective retrospectivity was in fact sanctioned by the law. Paragraph No.66 thereof reads as follows:

66. We deem it appropriate to address, in particular, the finding of the learned Sindh High Court that the application of Section 4B at a rate of 0% for Tax Year 2022 operates to bar the application of Section 4C for that year. We find that this reasoning cannot be sustained.

In view hereof these references are decided in favour of the department and against the taxpayer insofar as the issue of retrospectivity is concerned. 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.

It is sought that this reference application may be disposed of on the same reasons and upon the same terms. Order 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.

Judge

Judge

Amjad