

THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Adnan Iqbal Chaudhry

C.P. No. D – 1628 of 2026

[Naseem Ahmed Shah v. FOP & others]

Petitioner : Naseem Ahmed Shah through Mr. Darvesh K. Mandan, Advocate.

Respondents 1-2 : Federation of Pakistan and another through Ms. Mehreen Ibrahim, Deputy Attorney General for Pakistan.

Respondents 3-4 : The Commissioner Inland Revenue, Sukkur Zone and another through Rana Sakhawat Ali, Advocate.

Date of hearing : 02-10-2026

Date of decision : 02-10-2026

ORDER

Adnan Iqbal Chaudhry J.- Petitioner's liability for super tax payable under section 4C of the Income Tax Ordinance, 2001 [**Ordinance**] was determined by the Deputy Commissioner, Inland Revenue for tax years 2022, 2023, 2024 and 2025. After judgment of the Federal Constitutional Court, dated 27-01-2026, affirming the vires of section 4C of the Ordinance, the Commissioner issued notices to the Petitioner under section 138(1) of the Ordinance to recover super tax. On failure to pay, his bank accounts were attached. The Petitioner then made an application to the Commissioner under section 137(4) of the Ordinance for payment in installments, which was allowed by order dated 06-03-2026. The Respondents disclose that the Petitioner defaulted after paying the first installment. It is in this background that the Petitioner invoked writ jurisdiction.

2. It is contended by the Petitioner that in each tax year from 2022 to 2025, he had filed a tax return for tax refundable, which amount exceeds his liability for super tax for each tax year; therefore, he made

an application to the Inland Revenue to adjust the balance super tax payable by him from the tax refundable to him; however, no order was passed on his application, hence the petition for a direction to the Inland Revenue to adjust the Petitioner's liability for super tax from tax refundable to him in respect of tax years 2022 to 2025.

3. Learned counsel for the Petitioner places reliance on the judgment of the Federal Constitutional Court in the case of *CM Pak Ltd. v. Federation of Pakistan* (FCPLAs Nos. 1276 and 1277 of 2026) where it has been held that liability of super tax arising under section 4C of the Ordinance can be adjusted against a tax credit if available to the taxpayer in that tax year under section 168 (i.e. credit for tax collected or deducted), and in such cases the taxpayer should not be compelled to pursue the refund mechanism otherwise provided in section 170 of the Ordinance.

4. Comments filed by the Respondents reveal that with regards to tax years 2023 and 2024, the Petitioner had in fact made applications under section 170 of the Ordinance to claim refund of tax, which applications were rejected *vide* orders dated 09-09-2025. This fact was suppressed by the Petitioner from the Court. Clearly, if the Petitioner had already invoked the refund mechanism under section 170 of the Ordinance for tax years 2023 and 2024 and remained unsuccessful, there is no question of a tax credit in those tax years. Resultantly, the case of *CM Pak Ltd.* does not help the Petitioner for tax years 2023 and 2024.

5. For tax year 2022, the Petitioner's liability for super tax is Rs. 7,653,240/- whereas the tax refundable as per the return was only Rs. 471,750/-. In any case, it appears that the Petitioner chose not to make a refund application for that tax year at the time he did for tax years 2023 and 2024.

6. As regards tax year 2025, it is contended by the Petitioner in para 5 of the petition that he was allowed to file a revised tax return under sub-section (6) of section 114 of the Ordinance to adjust super

tax liability from available tax credit. However, the Petitioner has not challenged the recovery notice on that premise. Therefore, if the Petitioner's revised return for tax year 2025 was indeed accepted, he may approach the Commissioner Inland Revenue for withdrawing the recovery notice to the extent of tax year 2025.

7. In view of the foregoing, the petition is dismissed for tax years 2022, 2023 and 2034, whereas for tax year 2025 it is disposed of in terms of para 6 *supra*.

JUDGE

JUDGE

SADAM/SHABAN*