

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. Nos.D-5668 and 5669 of 2021

Gul Ahmed Holding (Pvt.) Ltd.  
Versus  
Federation of Pakistan & others

Date	Order with signature of Judge
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1. For hearing of CMA 23837/21
2. For hearing of main case

**Dated: 28.09.2021**

Mr. Muhammad Habib Qazi for petitioner.

Mr. Kafeel Ahmed Abbasi, Deputy Attorney General and Mr. Hussain Bohra, Assistant Attorney General.

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The issue involved in this petition is identical to those which have already been disposed of covering issue of super tax vide judgment reported as 2020 PTD 1742. Counsel for the petitioner seeks disposal of these two petitions on the identical terms to which learned Deputy Attorney General has no objection. Some of the petitions have been belatedly disposed of by applying above judgment mutatis mutandis.

In view of above, instant petitions along with pending applications, are also disposed of in terms of paragraph 17 of the referred judgment, which is reproduced as under:-

*“17. Accordingly, the above petitions and the suits, challenging the vires of Section 4B of the Income Tax Ordinance, 2001 through Finance Act, 2015 are disposed of in the following terms along with listed applications:-*

*(a) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act 2015 along with 53 Money Bill possess the characteristics of a tax, for being a compulsory exaction of money by public authority for the purposes of general revenue, whereas, the amount to tax so charged goes to Federal Consolidated Fund, therefore, has been rightly introduced under Article 73(2)(a) of the Constitution of the Islamic Republic of Pakistan, 1973, hence intra-vires to the Constitution;*

*(b) The Super Tax imposed under Section 4B of the Income Tax Ordinance 2001, through Finance Act 2015, along with Money Bill is an additional tax on income covered under Entry 47 of the IV Schedule to the Constitution “taxes on income”, and does not amount to double taxation, therefore, falls within the legislative competence of the National Assembly to impose, abolish, remit, alter or regulate a tax, through Finance Act along with Money Bill under Article 73 (2)(a) of the Constitution of the Islamic Republic of Pakistan, 1973, hence intra-vires to the Constitution;*

*(c) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act, 2001 along with Money Bill is not violative of the Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973 as it is neither discriminatory nor creates any unreasonable classification amongst the same class of person upon whom its charge has been created, while applying the common burden through uniform rate of tax upon Banking Companies@ 4% of the income, and person other than Banking Company, having income equal to or exceeding Rs.500 Million @ 3% of the income.*

*(d) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act 2015 along with Money Bill, is not a fee as there is no element of quid pro quo, nor the amount of Super Tax is charged as 54 consideration for rendering any services to its payer in any manner.*

Order accordingly.

**Judge**

**Judge**