

IN THE HIGH COURT OF SINDH, KARACHI

**Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Agha Faisal**

C. P. No. D-3309 of 2011

M/s. Ibrahim Fibres Ltd. VS Province of Sindh & others

For the Petitioners : M/s. Makhdoom Ali Khan, Hyder Ali Khan, Hussain Ali Almani, Fahad Khan, Rashid Anwar, Ahmed Hussain, Ameen M. Bandukda, Samiur Rehman Khan, Shaheer Roshan Shaikh, Navin Merchant alongwith Salman Yousuf, Faiz Durrani, Samia Faiz Durrani, Ghulam Muhammad, Muhammad Faheem, Umer Akhund, Sofia Saeed Shah, Aijaz Ali and Sobia Mehak, Ghulam Hussain Shah, Muhammad Adeel Awan, Shahan Karimi, Jehanzeb Awan, Karim Abbasi, S. Zeshan Ali, Imran Iqbal Khan, Rafiq Ahmed Kalwar, Nadir Hussain Abro, Rashid Mahar, Shafqat Zaman, Abdul Ahad Nadeem, Zahid Abbas, Yousuf Moulvi alongwith Rafia Murtaza, Taimur A. Mirza, Muhammad Arshad Mehmood, Aijaz Ahmed Zahid, Dr. Muhammad Khalid Hayat, Muhammad Irshad, Wajid Wyne, Shfaqat Zaman, Hamza Waleed, Rashid Mahar, Arshad Shahzad, Naeem Suleman, Asif Ali, Ahmed Hussain, Jawaid Farooqui, Imran Ali Abro, Zubair Ahmed Abro, Adnan Ahmed Zafar, Ajeet Sundar, Waqar Ahmed, Muhammad Adnan Moton, Khalid Mehmood Siddiqui, Barrister Usman Waleed, Muhammad Inziam Sharif, Salman Aziz Advocates.

For the Respondents : M/s. Farooq H. Naek, along with, Zulfiqar Arain, S. Qaim A. Shah, representing Excise & Taxation Dept. Mr. Salman Talibuddin, Advocate General Sindh assisted by Mr. Abdullah Abid, Advocate, Mr. Jawed Dero Additional Advocate General, Mr. Saifullah Assist. Advocate General Khalid Rajpar, Shahid Ali Qureshi, Mohsin Imam Wasti, Muhammad Zubair, Irfan Mir Halepota, Imran Ali Mithani, Muhabbat Hussain Awan, Muhammad Rashid Arfi Okash Mustafa for Muhammad Bilal Bhatti Advocates for Customs department.

Date of hearing : 26.10.2020, 05.11.2020, 25.01.2021, 15.04.2021 & 28.5.2021

Date of Judgment : 04.06.2021

JUDGMENT

Muhammad Junaid Ghafar, J. This Petition along with Petitions as mentioned in Annexure "A" to this Judgment involve an identical legal issue and are therefore, being decided through this common Judgment. The Petitioners have impugned a levy

known as Infrastructure fee / Cess imposed by the Province of Sindh through Sindh Finance Act, 1994 and its subsequent versions including the final version i.e. Sindh Development and Maintenance of Infrastructure Cess Act, 2017, on the ground that it is ultra vires to the Constitution and beyond the competence of the Provincial Legislature. All Petitioners before us are Importers of various goods and are aggrieved with the impugned levy being demanded and collected on such goods before their release from the Customs jurisdiction either at Sea Port(s) or Airport.

2. Learned Counsel for the Petitioners¹ have contended that the impugned levy is beyond the legislative competence of the Provincial legislature as it has no authority under the Constitution to levy a fee or cess on imports and exports into the Province from or for outside the country; that in all (7) seven versions of the law, the instance of the impugned levy is on goods entering or leaving the Province from or for outside the country through Air or Sea, whereas, after three versions while enacting the *fourth version*, the law was changed by insertion of additional purpose of the levy through insertion of words, “the smooth and safer movement of goods”, however, it still remains a levy on the import and export of goods which falls within the legislative competence of the Federal Legislature; that the nature and character of the impugned levy is to be determined on the basis of the taxable event which in the instant matter is the import and export of the goods into the and out of the Province from outside the country; that this taxable event is directly covered through Entries 24,² 27,³ and 43⁴ of the Federal Legislative List under the Fourth Schedule to the Constitution; hence, the Province does not have any authority to impose this levy; that in accordance with the Article 142 of the Constitution, it is only the Federation which has the exclusive legislative competence in respect of the matters enumerated in these Entries; that Customs Duties have been levied through the Customs Act, 1969 on the import and export of the goods into and outside the country; hence, the impugned levy

¹ Led by Mr. Makhdoom Ali Khan and Mr. Rashid Anwar Advocates

² Carriage of passengers and goods by sea or by air.

³ Import and export across customs frontiers as defined by the Federal Government, inter-provincial trade and commerce, trade and commerce with foreign countries; standard of quality of goods to be exported out of Pakistan.

⁴ Duties of customs, including export duties.

is beyond the competence of the Provincial legislature as it amounts to encroaching upon the legislative competence of the Federation; that it is settled law that entries in the legislative list are to be construed in a widest possible manner and not in a narrow, restricted or pedantic manner; that the Province of Baluchistan had also imposed a similar Infra-structure Cess through Baluchistan Infrastructure Development Cess Act, 2019 which has been declared ultra vires⁵; that the impugned levy is nothing but a Customs duty which is confirmed by way and in the manner, in which it has been levied and is calculated i.e. on the value of goods as assessed by the Customs Authorities; that insertion of additional levy of 1 paisa per kilometer through subsequent versions is irrelevant and is an attempt to cure an unconstitutional imposition of the levy; that it is a colorable exercise of legislation and impinges upon the powers of the Federation; that it is settled law that measure of levy imposed has a nexus with the nature of levy; that even otherwise, the impugned levy discriminates between locally manufactured goods as against the Petitioners imported and exported goods; that as to various attempts of re-validating the earlier versions, it is settled law that such an attempt cannot nullify the judgments of this Court without removing the defects in law pointed out by the Court in its earlier judgments; that the subsequent Acts / Ordinances do not remove any of the defects pointed out by this Hon'ble Court including that the cess is still imposed on the import and export of the goods; that it is still calculated primarily on the value of the goods which has no nexus with the nature and character of the levy; that even if it is assumed that this cess was a fee, no services are being provided in return; that the subsequent amendments including the 2017 Act, cannot be given retrospective effect as the charging section does not provides for any such effect; that without prejudice, as to the first four versions of law, it is a matter of past and closed transaction which cannot be reopened as this Court has already declared the first four versions of the impugned levy as ultra vires against which the Appeal before the Hon'ble Supreme Court stands withdrawn, and therefore, to that extent the demand of the

⁵ through Judgment dated 31.12.2020 in the case of Byco Petroleum Pakistan V. Government of Baluchistan and others (C. P. No. 580/2019)

impugned levy on the basis of the first four versions of the law is illegal and beyond the power and authority of the Province. They have relied upon numerous reported cases⁶ in support of their plea.

3. Mr. Farooq H. Naek Advocate appearing on behalf of Excise & Taxation Department due to his illness has not been able to argue in person; but has filed written arguments, copies of which were also supplied to the Petitioner's Counsel. According to him, the Petitions are not maintainable as the Petitioners have not challenged the vires of law in question as being violative of any provision of the Constitution; that the Province of Sindh has the prerogative to levy tax, duty, fee and cess for the benefit of its infrastructure which is within the legislative competence of the Province and neither it is violative of any rights guaranteed under the Constitution; nor transgresses the limitation imposed by Article 155 of the Constitution; that even otherwise, the bar as contained in Article 151 *ibid* is also not attracted as imposition of tax in itself is not a restriction on freedom of trade and commerce

⁶ **By Mr. Makhdoom Ali Khan--** H. A. Rahim & Sons (Pvt.) Ltd. V. Province of Sindh (2003 CLC 649), Quetta Textile Mills Limited V. Province of Sindh (PLD 2005 Karachi 55), Sanofi Aventis Pakistan Ltd. V. Province of Sindh (PLD 2009 Karachi 69), Province of Sindh V. Tahir Omer Industries (Pvt) Ltd (C. A. 1855 of 2008 & Others), Quetta Textile Mills Limited V. Province of Sindh (C. A. 1610 of 2008 & Others), Qamar Abbas V. Province of Sindh (C. P. 1657 of 2011), Mushtaq Textile Mills Limited V. KMC (1994 CLC 1516), Mushtaq Ali V. Government of Sindh (PLD 1998 Kar.416), Universal Merchants V. Commissioner of Karachi (1980 CLC 704), Kotri Association of Trade & Industry V. Government of Sindh (1982 CLC 1252), Hyderi Ship Breaking Industries V. Sindh Government (2007 MLD 770), East and West Steamship Co. V. Collector Customs (PLD 1976 SC 618), Pakistan V. Hazrat Hussain & Others (PTCL 2018 CL 700), Sindh Revenue Board V. The Civil Aviation Authority (2017 SCMR 1344), Sui Southern Gas Company Ltd. V. Federation of Pakistan (2018 SCMR 802), Abdul Rahim V. Federation of Pakistan (PLD 1988 SC 670), Sohail Jute Mills Ltd. V. Federation of Pakistan (PLD 1991 SC 329), Collector of Customs V. Sheikh Spinning Mills (1990 SCMR 1402), Sapphire Textile Mills Ltd. V. Government of Sindh (PLD 1990 Karachi 402), Byco Petroleum Pakistan V. The Government of Baluchistan (C.P No.580/2019), Baz Muhammad Kakar V. Federation of Pakistan (PLD 2012 SC 923), Nishat Tek Ltd. V. Federation of Pakistan (PLD 1994 Lahore 347), Buxa Dooars Tea Co. Ltd. V. State of West Bengal & Others (1989) 3 SCC 211), Ittefaq Foundry V. Federation of Pakistan (PLD 1990 Lahore 121), Inamur Rehman V. Federation of Pakistan (1992 SCMR 563), Government of NWFP V. Mejee Flour and General Mills (Pvt.) Ltd. (1997 SCMR 1804), Collector of Customs V. Flying Kraft Paper Mills (Pvt.) Ltd. (1999 SCMR 709), Arshad Mehmood V. Government of Punjab (PLD 2005 SC 193), Syed Nasir Ali V. Pakistan (2010 PTD 1924), Yaqoob Ahmed V. Federation of Pakistan (2020 PTD 1407), Mirpurkhas Sugar Mills Ltd. V. District Council, Tharparkar (1991 MLD 715), Molasses Trading and Export (Pvt.) Ltd. V. Federation of Pakistan (1993 SCMR 1905), Contempt Proceedings against Chief Secretary, Sindh (2013 SCMR 1752), Muhammad Hussain V. Muhammad (2000 SCMR 367), Zila Council Jehlum V. Pakistan Tobacco Co. Ltd. (PLD 2016 SC 398), Gulshan Spinning Mills Ltd. V. Government of Pakistan (2005 PTD 259), Federation of Pakistan V. Durrani Ceramics (2014 SCMR 1630), Abdul Aziz V. Province of West Pakistan (PLD 1958 SC 499).

By Mr. Rashid Anwar-- Pir Rashid ud Daula V. The Chief Administrator of Auqaf (PLD 1971 SC 401), Sohail Jute Mills Ltd V. Federation of Pakistan (PLD 1991 SC 329), Attorney General for Ontario V. Reciprocal Insurers (1924 AC Privy Council 328), Texada Mines Ltd. V. Attorney General of British Columbia (1960) SCR 713), A.G. B.C. V. Macdonald Murphy LBR Co. (1930)2 DLR 721), Joseph D. Bibb, State of Illinois, et al. V. Navajo Freight Lines, Inc. (359 US 520), Baz Muhammad Kakar V. Federation of Pakistan (PLD 2012 SC 923), Federation of Pakistan V. Shaukat Ali Mian (PLD 1999 SC 1026), Churchill Falls (Labrador) Corporation Ltd. V. The Attorney General of Newfoundland (1984) 1 RCS 297), K. C. Gajapati Narayan Deo and Others V. State of Orissa (AIR 1953 SC 375), Sanofi Aventis Pakistan Limited V. Province of Sindh and 2 Others (PLD 2009 Karachi 69), Pakistan Tobacco Company Ltd. V. Federation of Pakistan (1999 SCMR 382), Nishat Tek Limited V. The Federation of Pakistan (PLD 1994 Lahore 347), Central Board of Revenue V. Seven up Bottling company (1996 SCMR 700), Annapurna Match Industries, Cuddapah V. The Union of India (AIR 1971 Andhra Pradesh 69), Buxa Dooars Tea Company Ltd V. State of West Bengal (1989) 3 SCC 211), I.A. Sharwani V. Government of Pakistan (1991 SCMR 1041), Tariq Azizuddin (2010 SCMR 1301), Dr. Shah Nawaz Wajid V. Federation of Pakistan (2011 SCMR 1737), Arshad Mehmood V. Government of Punjab (PLD 2005 SC 193), Motor General Traders V. State of Andhra Pradesh (AIR 1984 SC 121), The State of Kerala V. Haji K. Haji K. Hutty Naha (AIR 1969 SC 378), Federation of Pakistan V. Durrani Ceramics (2014 SCMR 1630), Jamat-I-Islami Pakistan V. Federation of Pakistan (PLD 2000 SC 111), M/s Elahi Cotton Mills Ltd. V. Federation of Pakistan (PLD 1997 SC 582), KESC V. N.I.R.C. (PLD 2014 Sindh 553) Pakistan V. Hazrat Hussain (2018 SCMR 939), Mirpurkhas Sugar Mills Ltd. V. District Council, Tharparkar (1991 MLD 715), Jaora Sugar Mills (P) Ltd. V. State of Madhya Pradesh (AIR 1966 SC 416), Delhi Cloth & General Mills Co. Ltd. V. State of Rajasthan and Others [1996] 2 SCC 449, Shri Prithvi Cotton Mills Ltd. V. Broach Borough Municipality (1969)2 SCC 283), Krishna Chandra Gaangopadhyaya V. The Union of India (AIR 1975 SC 1389), R.P.S. Junior College V. R. Vaidyanatha Iyer, (AIR 1989 Andhra Pradesh 96), Molasses Trading & Export (Pvt.) Limited V. Federation of Pakistan (1993 SCMR 1905).

between the Provinces, whereas, the impugned levy is for the betterment of the infrastructure of the Province as a whole and would contribute to the efficiency of trade and commerce; that the subject of impugned legislation (all versions) is not covered or hit by any item either in the Federal or in the Concurrent Legislative List; that the Provincial legislature enjoys exclusive legislative authority on the subject matter in terms of Article 142 (c) of the Constitution; that it is neither a customs duty which is levied by the Federation under entry 43 of Part 1 of the Federal Legislative List; nor the levy in question is a tax on import or export and in fact it is a levy on imported goods which are being transported within the country by road using infrastructure of the Province; that reliance on entry No. 24 of the Federal Legislative List is misconceived as it is about carriage of goods by sea or air, and does not include carriage of goods by road; hence, levy of infrastructure cess on carriage of goods by road is a Provincial subject and within the competence of the Provincial legislature; that notwithstanding the judgments of this Court in respect of earlier versions, subsequently, the law has been amended and lastly through Sindh Finance Act, 2009 and the 2017 Act, which has given retrospective effect to all such amendments; hence, the defect, if any, also stands cured; that levy of this cess is not discriminatory as it is charged on standard basis pursuant to a Schedule annexed with the Act and is applicable on a certain class i.e. importers and exporters. He has sought support from various reported cases⁷.

4. Learned Advocate General on Court notice issued in terms of Order 27A of the Civil Procedure Code has argued that judgment of the Appellate Court in *Sanofi Aventis*⁸ to the extent of first four versions of law is no more in field after promulgation of subsequent Ordinances and Act retrospectively, and as a consequence thereof, the judgment in *Quetta Textile*⁹ is still in field through which the impugned law / levy was held to be intra vires,

⁷ D. G. Khan Cement Company Limited V. The Federation of Pakistan (2020 PTD 1186), State of M. P. V. Rakesh Kohli and another (2013 SCMR 34), Cherat Cement Co. Ltd V. Federation of Pakistan (PLD 2021 SC 327), Khurshid Soap and Chemical Industries (Pvt.) Ltd. V. Federation of Pakistan (PLD 2020 SC 641), Independent Media Corporation (Pvt.) Ltd. V. Province of Sindh (2018 PTD 1869), I.C.I. Pakistan Limited V. Pakistan (2005 PTD 719), Fecto Belarus Tractor Ltd. V. Government of Pakistan (PLD 2005 SC 605), Dr. Mobashir Hassan V. Federation of Pakistan (PLD 2010 SC 265), Contempt Proceedings against Chief Secretary Sindh (2014 PLC (CS) 82), Molasses Trading & Export (Pvt.) Limited V. Federation of Pakistan (1993 SCMR 1905), Mamukanjan Cotton Factory V. the Punjab Province (PLD 1975 SC 50)

⁸ PLD 2009 Karachi 69

⁹ PLD 2005 Karachi 55

whereas, Entry 24 of the Federal Legislative List does not cover the word "Road"; hence, the Province is competent to legislate on this subject.

5. We have heard all the learned Counsel as well as learned Advocate General Sindh and have perused the record. It appears that the impugned levy was introduced for the first time by the Province of Sindh in the year 1994 through Sections 9 & 10 of the Sindh Finance Act, 1994 which came into effect from 01.07.1994 (first version)¹⁰ and pursuant to this Act on 22.08.1994 Sindh Development and Maintenance of Infrastructure fee Rules 1994 were notified, which provided the rates¹¹, quantification, assessment, appeal and revision. Subsequently, through Section 5 of the Sindh Finance Act, 1996, Section 9 of the 1994 Act was substituted (second version)¹².

6. The above levy was then challenged by a number of aggrieved parties through Constitutional Petitions as well as Civil Suits. A learned Single Judge of this Court in the case reported as *H. A. Rahim (Pvt.) Ltd. (supra)* was pleased to decree the Suits by declaring the infrastructure fee as unconstitutional and ultra vires. The said judgment was then impugned through a time barred High Court Appeal No. 33/2001 by the Province of Sindh and during its pendency Sindh Finance (Amendment) Ordinance, 2001 dated 24.02.2001 was promulgated and an attempt was

¹⁰ 9. There shall be levied and collected a fee for services rendered in respect of development and maintenance of infrastructure on the goods entering or leaving the Province, from or for outside the country, through air or sea at the rates and in the manner as may be prescribed.

10. Government may make rules for carrying into effect the purpose of this Act and such rules may among other matters, prescribe the procedure for the assessment, collection and payment of and exemption from the taxes and cesses levied under this Act."

¹¹ "3. Rate of Fee. ---(1) The fee for the services in respect of development and maintenance of infrastructure shall be assessed and collected by the Excise and Taxation Officer of the District at the following rates: --

- (a) On goods entering the Province from outside the country: --
 - (i) Where the customs duty 0.1% on duty is paid in the Province paid value.
 - (ii) Where the customs duty is 0.2% on C and F to be paid outside the Province value

(2) The fee on the goods mentioned in clause (b) shall not be charged during the year 1994-95."

¹² "9 Infrastructure fee on goods.---There shall be levied and collected Infrastructure fee on the movement of goods entering or leaving the Province from or for outside the Country, through air or sea, at the rates and in the manner as may be prescribed.

Explanation.---For the purpose of this section, the word "Infrastructure" includes roads, streets, bridges, culverts, lights on passages, plantation on passages, benches, by passes, air centers road side rest houses, safety and protection on rail roads and construction of connected roads to railway stations, regulation and control of traffic for smooth flow and movement of goods, public order, police force, patrol for safety of goods, stands for loading and unloading of goods, markets and development, improvement, maintenance and protection of such matters.

9-A. Validation.---Anything done, action taken, assessment made and collected, order passed, or purported to have been done, taken, made, assessed, collected or passed on or before the coming into force of this section or on or after the enforcement of the Sindh Development and Maintenance of Infrastructure Fee Rules, 1994, by the Authority specified in the said rules shall be deemed to have been validly done, taken, made assessed, collected of passed and shall have and shall have and shall be deemed always to have effect accordingly."

made to annul the judgment of the learned Single Judge by changing the nomenclature of the impugned levy from infrastructure **fee** to infrastructure **cess** with addition of a revalidation clause. The pending Petitions were then dismissed as infructuous in view of promulgation of the Sindh Finance (Amendment) Ordinance, 2001 (third version) as above, by permitting the aggrieved parties to challenge or impugn the validity of the same by filing fresh cases. Insofar as High Court Appeal No. 33/2001 was concerned, the delay in filing of the same was though condoned; but the Advocate General filed a statement to the effect that in view of Amendment Ordinance, 2001 his Appeal has become infructuous and he no longer wishes to press the same. On such statement, the Appeal was disposed of. Thereafter, in this backdrop various Suits were filed in this Court on the Original Side challenging the vires of Sindh Finance (Amendment) Ordinance, 2001¹³. Thereafter when these Suits were pending, *fourth version* of the law was introduced through Sindh Finance (Second Amendment) Ordinance, 2001 on 15.05.2001 which was made effective retrospectively from 24.02.2001 through which various amendments were made in the Sindh Finance Act, 1994¹⁴.

¹³ "2. Amendment of the Sindh Finance Act, No. XIII of 1994.---In the Sindh Finance Act, 1994, for section 9 including the Explanation and section 9-A, the following shall be substituted:--

9. Levy of cess for special maintenance and development of Infrastructure.---(1) Substitution of sections-9 and 9-A of Sindh Act, XIII of 1994). There shall be levied and collected a cess for special maintenance and development of infrastructure for smooth and safer movement of goods, entering or leaving the Province from or for outside the country, through air or sea at the rates and in the manner as may be prescribed.

Explanation.---For the purpose of this section, the word "Infrastructure" includes, roads, streets, bridges, culverts, lights on passages, plantation on passages, beaches, public parks, place of public recreation and convenience, eating places, landscape, forests, fisheries delta conservation, lakes, breeding places of aquatic life, wild life and its sanctuaries, public schools, vocational and technical training centres and projects, libraries museums and similar institutions controlled and financed by the Private control of traffic for smooth flow and safer movement of goods, public order, police force, patrol for safety of goods, stands for loading and unloading of goods, parking places, markets water supply, hospital and dispensaries and development, improvements, maintenance and protection of such matters.

(2) The proceeds of the cess shall be utilized for special maintenance and development of Infrastructure and other activities ancillary thereto in such manner as may be prescribed.

3. Validation.---Notwithstanding anything contained in any law, rules or judgments, order of decree of any Court---

(i) the Infrastructure fee levied, assessed, charged and collected in pursuance of the Sindh Finance Act, 1994 before the coming into force of this Ordinance shall be deemed to have been validly levied, assessed, charged, or collected as cess, and

(ii) anything done, action taken assessment and collection made, order passed or purported to have been done taken under, section 9 of the Sindh Finance Act, 1994 and the Sindh Development and Maintenance of Infrastructure Fee Rules, 1994 in relation to Infrastructure fees before the coming into force of this Ordinance shall be deemed to have been validly done, taken, made, or passed in relation to cess and shall have and shall be deemed always to have effect accordingly.

4. Jurisdiction barred.---No provision of this Ordinance or any order made thereunder shall be called in question by or before any Court."

¹⁴ "2. Amendment of the Sindh Finance Act No. XIII of 1994.---In the Sindh Finance Act, 1994, in section 9---

(i) for subsection (1) excluding the Explanation the following shall be substituted;

7. At this point of time, there were in effect *four versions* of the impugned levy / law which were in field and the pending Suits were then heard and decided by a learned Single Judge of this Court whereby, all the Suits were dismissed in the case of *Quetta Textile (Supra)*. The said judgment was impugned by way of High Court Appeals and a learned Division Bench of this Court in *Sanofi Aventis (Supra)* decided the Appeals in favour of the litigants to the extent that the first three versions of the law were in fact an imposition on the import and export and for that the Province of Sindh had no authority or jurisdiction; hence, it was ultra vires and unconstitutional. It was further held that insofar as the *fourth version* is concerned, it had no nexus with the nature and character of the levy and was also struck down; however, during pendency of the Appeals, a *fifth version* was also promulgated by way of Sindh Finance (Amendment) Ordinance 2006¹⁵ on 29.12.2006 and notwithstanding that it was never under challenge, either in the original Suits (in fact it could not have been as the Suit were much earlier in time) nor in the Appeals by way of any formal amendment of the pleadings; but at the request and consent of the Counsel for the Province of Sindh, was permitted to be challenged through verbal arguments. The learned Division Bench while deciding *Sanofi Aventis* to the extent of the fifth version, came to the conclusion that it was intra vires to the Constitution and the previous shortcomings and defects in the legislation in

(i) There shall be levied and collected a cess of maintenance and development of infrastructure of goods at the rate of 0.5 per cent of their value of carriage by road and smooth and safer movement in the Province upon entering or before leaving the province from or for outside the country, through air or sea, in the manner as may be prescribed.";

(ii) the existing Explanation shall be re-numbered as Explanation "I" and after the Explanation so re-numbered, the following new Explanation shall be added;

Explanation II.—For the purposes of this section the value means C & F price of goods to the owner upon their entering in and using the infrastructure of the province; and for other goods the price disclosed in the shipping documents.";

(iii) after subsection (2), the following new subsection shall be added;

(3) No refund of the cess claimed to have been paid or over-paid through inadvertence error or misconstruction shall be allowed, unless such claim is made within three months of the date of payment of such cess."

¹⁵ "Amendment of section 9 of Sindh Act No. XIII of 1994

2. In the Sindh Finance Act, 1994, hereinafter referred to as the said Act, in section 9, for subsection (1), the following shall be substituted: --

(1) There shall be levied and collected a cess for maintenance and development of Infrastructure on goods at the rate determined on the basis of their value, net weight and distance in accordance with the Schedule appended to this Act, for carriage by road and smooth and safer movement in the Province upon entering or before leaving the Province from or for outside the Province or country, through air or sea: --

(2) There shall be levied and collected a cess for maintenance and development or Infrastructure on goods at the rate determined on the basis of their value, net weight and distance in accordance with the Schedule appended to this Act, for carriage by road and smooth and safer movement in the Province upon entering or before leaving the Province from or for outside the Province or country, through air or sea:

Provided that cess on gold shall be charged at the rate of 0.125% of the value of gold.

Explanation. ---For the purpose of this section, the word "infrastructure" includes, roads, streets, bridges culverts, lights on passages, plantation., on passages, beaches, public parks, place of public recreation and convenience, eating places, landscape, forests, fisheries, delta conservation, lakes, breeding places aquatic life, wildlife and its sanctuaries, public schools, vocational and technical training centers and projects, libraries, museums and similar institutions controlled and financed by the province, control of traffic for smooth loading and unloading of goods, parking places, markets, water supply, hospitals and dispensaries and development, improvement, maintenance and protection of such matters.

Addition of Schedule of Sindh Act No. XIII of 1994.

3. In the said Act, after section 10, the following Schedule shall be added:"

respect of discrimination and the measurement of the levy had been cured, and therefore, it was upheld. It may also be of relevance to observe that though in *Sanofi Aventis* the fifth version was upheld; but it had been re-enacted through Sindh Finance (Amendment) Act, 2007 on 24.10.2007 made effective from 28.3.2007; however, the judgment deals with the Ordinance, 2006, with a categorical finding that it is neither retrospective in nature nor it is applicable to past and closed transactions and section 1(2) of 2006 Ordinance confirms that it shall be enforceable at once, i.e. from the date of its promulgation, being prospective and not retrospective¹⁶.

8. The Province of Sindh as well as the litigants being aggrieved preferred Appeals before the Hon'ble Supreme Court. The litigants impugned the judgment to the extent of the findings in relation to the *fifth version*, whereas, the Province impugned the same to the extent of the judgment in respect of the *first four versions*. On 17.05.2011 the Counsel for the Province of Sindh withdrew the Appeals on the ground that he has been instructed by the Government of Sindh not to press these Appeals as subsequent amendments have been made which are retrospectively applicable, and therefore, the entire case of the Government of Sindh would be dependent upon the result of the Appeals of the private persons. The said order passed by the Hon'ble Supreme Court on 17.05.2011 reads as under: -

"Iftikhar Muhammad Choudhry, C.J.- Mr. Fakhar-ud-din G. Ibrahim, learned Sr. ASC states that he has been instructed by the Government of Sindh not to press the above listed appeals. Further that the Sindh Finance (Amendment) Ordinance, 2006 ratified into the Sindh Finance Act (Act No. II of 2007), was further amended by the Sindh Finance Act, 2009 to make the same retrospectively applicable. And therefore the entire case of Government of Sindh would depend upon the result of the appeals of the private persons arising out of the impugned judgment wherein following operative para of the judgment has been challenged: -

"(b) the fifth version of law i.e. the Sindh Finance (Amendment) Ordinance, 2006 is valid and hence the levy imposed and collected from the

¹⁶ 50. The appeals are therefore partly allowed and the following is the summary of our conclusions:--

(a) the first four versions of the law i.e. sections 9 and 10 of the Sindh Finance Act, 1994, section 5 of the Sindh Finance Act, 1996, the Sindh Finance (Amendment) Ordinance, 2001 and the Sindh Finance (Second Amendment) Ordinance, 2001 are hereby declared to be ultra vires the Constitution, invalid, void ab initio and of no legal effect;

(b) the fifth version of law i.e. the Sindh Finance (Amendment) Ordinance, 2006 is valid and hence the levy imposed and collected from the effective date of the fifth version i.e. 28-12-2006 is valid and all imposition and collection before such date are declare to be invalid;

effective date of the fifth version i.e. 28.12.2006 is valid and all imposition and collection before such date are declared to be invalid;”

2. In view of the above prayer of the learned Sr. ASC appearing for Government of Sindh, the above listed appeals are dismissed as not pressed.”

9. Similarly, insofar as the Appeals filed by the private parties were concerned, though they were argued on certain dates; however, on 20.05.2011 pursuant to a joint statement filed by the respective Counsel for the contesting parties the said Appeals were also disposed of in the following terms: -

“Iftikhar Muhammad Choudhry, C.J.- Learned Counsel for the parties after having addressed arguments at length were enquired / required to satisfy that in absence of specific challenge to 5th version of the Sindh Finance (Amendment) Ordinance, 2006, (Sindh Ordinance No. XXXVIII of 2006), re-enacted through Sindh Finance (Amendment) Ordinance, 2007 (No. XX of 2007) and then ratified through Sindh Finances Amendment Act 2007 (No. II of 2007) whether it was legally possible for the learned High Court to decide the appeals arising out of the judgment dated 28.10.2003 passed by a learned Single Judge whereby civil suits filed by the parties were disposed of.

2. It is to be noted that instant proceedings have arisen out of a civil suit instituted by the appellants wherein the first, second, third and *fourth version* of the law mentioned hereinabove were challenged, but so far fifth version is concerned, it was promulgated when the appeals before the High Court were pending, therefore, it had become necessary to amend the pleadings and challenged the same because of a number of differences in the earlier versions and re-enacted through Sindh Finance (Amendment) Ordinance, 2007 (No. XX of 2007) and then ratified through Sindh Finances Amendment Act 2007 (No. II of 2007). Had the matter arisen between the parties out of petition under Article 199 or any other relevant provisions, perhaps, the High Court may have allowed the parties to argue their case as to the developments taking place during pendency of the lis, but when there was a suit on the basis of pleadings, in our considered opinion amendment of the pleadings was necessary and if any concessional statement on the issue was given by the learned counsel for the respondents the same was not admissible under the law. On this learned counsel for the parties discussed the said issue and filed the following joint statement:

“Joint statement

By consent the subject appeals may be disposed of in the following terms:

1. The subject appeals all challenge inter alia the judgments of the learned single judge as well as the division bench of the Honorable High Court of Sindh at Karachi whereby the fifth version of the impugned law in question introduced vide Sindh Finance (Amendment) Ordinance, 2006, (No. XXXVIII of 2006), re-enacted through Sindh Finance (Amendment) Ordinance, 2007 (No. XX of 2007) and then ratified through Sindh Finances Amendment Act 2007 (No. II of 2007) was upheld and the *fourth version* of the impugned law in question introduced vide the Sindh Finance (Second Amendment) Ordinance, 2001 (XVI of 2001) was upheld to the extent of legislative competence.
2. That notwithstanding the concessional statement to the effect that no formal challenge would be required having been made by the then learned counsel appearing then for the Government of Sindh, **this Honorable Court may kindly be pleased to set aside the**

impugned orders, judgments, decrees passed by the courts below to the extent noted above. (Emphasis supplied)

3. The appellants will be at liberty to challenge any / all versions of the levy on infrastructure with which the appellants are aggrieved.

It is therefore, prayed that all the appeals be disposed of in the above terms.”

3. Mr. Makhdoom Ali Khan, learned counsel for the appellant's states that Mr. Khalid Anwar, learned Sr. ASC, who is not available today in Islamabad, has instructed him to file statement on his behalf and that such instructions have been taken on telephone.

4. As a result of above Joint Statement (Arrangement between the parties) the impugned judgments along with the interim order already passed on 27.10.2008, etc. whereby the parties were directed to maintain status quo, are set aside with all the legal consequences legally to be followed after vacating the said order. The appellants in terms of above arrangement, however, shall be free to challenge any or all versions of levy on infrastructure with which they feel aggrieved save in accordance with law.

5. All the appeals are disposed of in the above terms. Parties are left to bear their own costs.”

10. Insofar as the case of the present Petitioners is concerned, it has been argued that since the Government of Sindh had withdrawn its Appeals and the said withdrawal was dependent upon the outcome of the Appeals filed by the private parties which were then disposed of through a joint statement which was only to the extent of the *fourth version* (only the legislative competence) and the *fifth version*; therefore, insofar as the judgment in the case of *Sanofi Aventis* is concerned, the same is now a case of past and closed transaction, whereby, the *first four versions* of the impugned levy were struck down. On the other hand, the case of Province of Sindh is that since the subsequent Amending Ordinance i.e. Sindh Finance (Amendment) Ordinance, 2006, (No. XXXVIII of 2006), re-enacted through Sindh Finance (Amendment) Ordinance, 2007 (No. XX of 2007) and then ratified through Sindh Finance Amendment Act 2007 (No. II of 2007) and Sindh Finance Act 2009 were made applicable retrospectively, whereas, a revalidation clause was also promulgated; therefore, the effect of the judgment in the case of *Sanofi Aventis* is no more in field. On perusal of the record and the orders passed by the Hon'ble Supreme Court in the respective Appeals of the parties, we are of the considered view that the stance of the present Petitioners appears to be correct to a certain extent. It is to be noted that it was the Province of Sindh which first withdrew its Appeals, and

the said order very clearly reflects that it is being done on the instructions of the Government of Sindh i.e. *not to press the Appeals*. It has been recorded that the entire case of the Government of Sindh would be dependent upon the result of the Appeals of the private persons, whereas, despite a statement of their Counsel regarding enactment of subsequent legislation retrospectively, the final order of the Hon'ble Supreme Court is only a simplicitor withdrawal of the Appeals filed by the Province. It was observed that in view of above prayer of the learned Senior Advocate appearing for the Government of Sindh the Appeals are dismissed as not pressed. It has neither remanded the matter nor has asked the Appellate Court to decide it afresh after examining the Re-validation clause and retrospective effect of the enactments as contended by their Counsel. Admittedly the private parties had only challenged the judgment in the case of *Sanofi Aventis* to the extent of the *fourth version* in respect of legislative competence, and the entire *fifth version* of the law. On the other hand, the Appeals of the aggrieved parties were disposed of on the basis of a joint statement which was only in respect of the *fourth version* (partly) and the *fifth version* of the law. In our considered view, the entire case of the Province to the extent of their Appeals before the Hon'ble Supreme Court was (i) that it withdrew its Appeals merely on the ground that subsequent legislation had been made or enacted, and that satisfies them to withdraw their Appeals; and (ii) it was also dependent on the outcome of the Appeals of the private persons. When the two orders as above are read in juxtaposition to arrive at a fair conclusion, it appears that insofar as the subsequent Amending Ordinance of 2006, The 2007 Act and the 2009 Act, and its retrospective applicability is concerned, it was never touched upon by the Hon'ble Supreme Court; nor was it remanded to the Appellate Court for any adjudication. It was just merely a statement of the learned Advocate for the Province of Sindh; but in effect, there was no conclusive finding by the Hon'ble Supreme Court that as to what would be the effect of these Amending Ordinance / Act through which the same were purportedly made applicable retrospectively. The aggrieved party was left to challenge it (i.e. the fifth version or any other version) and naturally they would only challenge what is

against them. At that point of time it was only the *fifth version* which they could have challenged and not the *first four versions* in respect of which *Sanofi Aventis* had decided it in their favor (barring the legislative competence in respect of the *fourth version*). Similarly, when the joint statement filed in the Appeals of the private parties is examined, it appears to be filed by consent and it clearly reflects that it was only to the effect of setting aside the impugned judgment in the case of *Sanofi Aventis* to the extent of the *fourth version* in respect of its legislative competence and the *fifth version*. And this arrangement was apparently arrived at because before the High Court the *fifth version* was permitted to be impugned on a verbal concession of the Counsel then appearing for the Province of Sindh without a formal amendment of the pleadings. It was also observed by the Hon'ble Supreme Court in the order date 20.5.2011 that these proceedings had arisen out of a civil suit instituted by the appellants wherein the first, second, third and *fourth version* of the law mentioned hereinabove were challenged, but so far the fifth version is concerned, it was promulgated when the Appeals before the High Court were pending, therefore, it had become necessary to amend the pleadings and challenge the same because of a number of differences in the earlier versions and re-enactment through Sindh Finance (Amendment) Ordinance, 2007 (No. XX of 2007) and then ratified through Sindh Finances Amendment Act 2007 (No. II of 2007). It was further observed that had the matter arisen between the parties out of petition under Article 199 or any other relevant provisions, perhaps, the High Court may have allowed the parties to argue their case as to the developments which took place during pendency of the lis, but when there was a suit on the basis of pleadings, in our considered opinion amendment of the pleadings was necessary and if any concessional statement on the issue was given by the learned counsel for the respondents the same was not admissible under the law. It appears that on this observation, the parties filed a joint statement for disposal of the said set of Appeals. Even otherwise, after withdrawal of the Appeals filed by the Government of Sindh it could not be presumed that the private parties would agree for setting aside of the entire judgment even to the extent of the *first four versions* which was in their favour. Therefore, in our

considered view and insofar as the present position is concerned, the judgment in the case of *Sanofi Aventis* to the extent of the *first four versions* of the impugned levy has attained finality and for the present purposes we are not required to examine the validity of these *four versions* any further, on the ground that thereafter an Amending Ordinance in 2006 and the 2009 Act had been promulgated. It could have only been done in the pending Appeals if the Province of Sindh had not withdrawn their appeals simplicitor; and if it had sought a disposal order by remanding the matter to the Appellate Court on this touchstone that the subsequent Amending Ordinances / Act, have been given effect retrospectively and had also in effect nullified the impugned judgment; the Appeals be heard afresh. This was never their case. In fact, the court in *Sanofi Aventis* while considering the effect of Amendment Ordinance 2006, had clearly observed that the *fifth version* was prospective in nature as it was effective from the date of its promulgation. Though at that point of time Sindh Finance Act, 2007 (Sind Act No. II of 2007) had also been passed through which it was given effect from 28.3.2007 and had also repealed Amendment Ordinance 2006; however, it was not considered by the learned Bench in the case of *Sanofi Aventis*. Moreover, it was only in the sixth version in 2009 that it was given effect from the date of introduction of the levy through Sindh Finance Act, 1994 i.e. 1.7.1994.

11. The upshot of the above discussion is that the judgment in the case of *Sanofi Aventis* to the extent of validity or otherwise of the *first four versions* of the law in question is concerned, it has attained finality as the Province of Sindh had withdrawn its Appeals to that extent without seeking any remand of the matter to the same Appellate Court. This includes the question of any retrospective applicability of the Amending laws i.e. the fifth version onwards. However, since it was arising out of proceedings initiated by way of a Civil Suit between the parties, it is only applicable to the inter-parties who were before the Court at the original stage by way of Suits in *Quetta Textile* and then in Appeals in *Sanofi Aventis* and not in rem to all.

12. Alternatively, even if we assume for a moment that the stance of the Province before the Hon'ble Supreme Court was justified to the extent that since subsequently after pronouncement of judgment in *Sanofi Aventis* an amending law "The Sindh Finance Act, 2009" had been passed retrospectively; hence, the Appeals were necessarily ought to have been withdrawn. However, at the very outset (and discussed in detail hereinafter) we may point out that the Sindh Finance Act, 2009, was never a law which had anything to do with undoing the judgment in *Sanofi Aventis*. Nonetheless the validity of such amending and validation clauses even otherwise cannot *ipso-facto* invalidate the judgment in the case of *Sanofi Aventis*. Such amending and or Re-validation law still has to pass the test of settled law in this context. We notwithstanding our above findings will even examine such Re-validation which purportedly as per the Respondents case has undone the effect of the judgment in *Sanofi Aventis*. It may be recalled that when the judgment in *Sanofi Aventis* was passed, *four versions of law* were already in challenge and all had been declared as ultra vires. The *fifth version* came during pendency of the Appeal and its vires were permitted to be impugned verbally by way of arguments. And while the Appeal of the Province was pending before the Hon'ble Supreme Court, The Sindh Finance Act, 2009 was promulgated and the Appeals were not pressed. Now on a holistic examination of the same we do not see as to how the stance of the Province is justified that the amending Ordinance and or law as well the re-validation clauses have undone the effect of the judgment in the case of *Sanofi Aventis*. Though it is a well settled principle that effect of a judgment rendered by a competent Court of law declaring any provision of law as ultra vires or declaring levy of a tax as illegal can be undone; however, it is also well settled that it can only be done if the grounds of illegality or invalidity are capable of being removed and are in fact removed. This Court in several cases has recognized the right of the legislature to re-enact a law on the same subject, which on account of legal infirmities in its enactment process had been declared invalid by a Court of law, by removing the causes that led to its invalidity. The legislature is also competent to make the re-enacted law applicable retrospectively in order to bind even the past transactions that had been declared

invalid¹⁷. But at the same time it is also well settled that when a legislature intend to validate a tax declared by a Court to be illegally collected under an invalid law, the cause for ineffectiveness or invalidity must be removed before the validation can be said to take place effectively and it will not be sufficient merely to pronounce in the statute by means of a non-obstinate clause that the decision of the Court shall not bind the authority, because that will amount to reversing a judicial decision rendered in exercise of the judicial power, which is not within the domain of the Legislature. It is therefore necessary that the conditions on which the decision of the Court intended to be avoided is based, must be altered so fundamentally, that the decision would not any longer be applicable to the altered circumstances. The seminal judgment in this regard is of *Molasses Trading*¹⁸ wherein the issue was that to undo the effect of judgment rendered in the case of *Al-Samrez Enterprises*¹⁹ by the Hon'ble Supreme Court, section 31A in the Customs Act, 1969 was introduced and an attempt was made to give the amendment a retrospective effect. However, in *Molasses Trading*²⁰ it was held that despite such an attempt the insertion of section 31A did not have an effect on the past and closed transactions. The pertinent observation is as under:

"Before considering this question it would be appropriate to make certain general observations with regard to the power of validation possessed by the legislature in the domain of taxing statute. It has been held that when a legislature intend to validate a tax declared by a Court to be illegally collected under an invalid law, the cause for ineffectiveness or invalidity must be removed before the validation can be said to take place effectively. It will not be sufficient merely to pronounce in the statute by means of a non-obstinate clause that the decision of the Court shall not bind the authority, because that will amount to reversing a judicial decision rendered in exercise of the judicial power, which is not within the domain of the Legislature. It is therefore necessary that the conditions on which the decision of the Court intended to be avoided is based, must be altered so fundamentally, that the decision would not any longer be applicable to the altered circumstances. One of the accepted modes of achieving this object by the Legislature is to re-enact retrospectively a valid and legal taxing provision, and adopting the fiction to make the tax already collected to stand under the re-enacted law. The Legislature can even give its own meaning and interpretation of the law under which the tax was collected and by 'legislative fiat' make the new meaning binding upon Court. It is in one of these ways that the Legislature can neutralize the earlier decision of the Court. The Legislature has within the bound of the Constitutional Limitation the power to make such a law and give it retrospective effect so as to bind even past transaction. In ultimate analysis therefore a primary test of validating piece of legislation is whether the new provision removes the defect, which the Court had found in the existing law, and whether adequate provisions in the validating law for a valid imposition of tax were made."

¹⁷ PLD 2020 SC 641 *Khurshid Soap & Chemical Industries Ltd v Fed of Pakistan*

¹⁸ (1993 SCMR 1905) *Molasses Trading & Exp Limited v Fed of Pakistan*

¹⁹ (1986 SCMR 1917) *Al Samrez Enterprises v Fed of Pakistan*

²⁰ By majority of 3:2

It was further held that vested rights cannot be taken away save by express words or necessary intendment in the statute; that Legislature, which is competent to make a law, has full plenary powers within its sphere of operation to legislate retrospectively or retroactively; that vested right can be taken away by a retrospective/retroactive legislation and such legislation cannot be struck down on that ground; that Statute cannot be read in such a way as to change accrued rights, the title to which consists in transactions past and closed or any facts or events that have already occurred; that when a statute contemplates that a state of affairs should be deemed to have existed, it clearly proceeds on the assumption that in fact it did not exist at the relevant time but by a legal fiction Court has to assume as if it did exist; that when a statute enacts that something shall be deemed to have been done which in fact and in truth was not done, the Court is entitled and bound to ascertain for what purpose and between what persons the statutory fiction is to be resorted to. It is a well-settled principle of interpretation that there is a strong presumption against the retrospectivity of a legislation which touches or destroys the vested rights of the parties. No doubt the Legislature is competent to give retrospective effect to an Act and can also take away the vested rights of the parties, but to provide for such consequences, the Legislature must use words which are clear, unambiguous and are not capable of any other interpretation or such interpretation follows as a necessary implication from the words used in the enactment. Therefore, while construing a legislation which has been given retrospective effect and interferes with the vested rights of the parties, the words used therein must be construed strictly and no case should be allowed to fall within the letter and spirit of Act which is not covered by the plain language of the legislation²¹.

13. While keeping in view the above dicta when the issue in hand and the purported retrospective legislation is looked into, it appears that it fails the above test miserably. As would be recalled the Appeals before the Hon'ble Supreme Court were withdrawn on the ground that Sindh Finance (Amendment)

²¹ Muhammad Hussain v Muhammad (2000 SCMR 367)

Act, 2009 was promulgated on 23.2.2009 i.e. after judgment was delivered on 17.9.2008 in the case of *Sanofi Aventis*; however, neither any retrospective purposeful legislation was made; nor any attempt was made to undo the judgment in *Sanofi Aventis*; but surprisingly the Appeals were not pressed before the Hon'ble Supreme Court by stating that some retrospective legislation had been made. It may also be noted that the curative or otherwise re-validation laws that were stated to have been in field at the time of withdrawal of the Appeals by the Province had got nothing to do with their Appeals at least, as the fifth version had already been held to be intra vires in *Sanofi Aventis*. When we examine the relevant provisions in question on the touchstone of law settled by the Hon'ble Supreme Court from time to time including that in *Molasses Trading*, we are undoubtedly of the view that the suggested amendments as above have failed to cure any defect in the legislation; at least to the extent of the *first four versions* of the law between the parties in litigation till *Sanofi Aventis* was delivered. Neither there is any deeming clause in the 2009 Act; nor it caters or even mentions the judgment; nor has a non-obstante clause; except some retrospective effect. That may be good for those who had not challenged the levy from the outset; however, this would not be applicable to the parties who already had a judgment in their favor i.e. *Sanofi Aventis*. It need not be reiterated that when a statute enacts that something shall be deemed to have been done which in fact and in truth was not done, the Court is entitled and bound to ascertain for what purposes and between what persons the statutory fiction is to be resorted to²³. It would require language much more explicit than that which is to be found in Ordinance, 2009, to justify a Court of law in holding that a legislative body intended not merely to alter the law, but to alter it so as to deprive a litigant of a judgment rightly given and still subsisting²⁴.

14. Therefore, from the above discussion it can be safely concluded that insofar as the *first four versions* of the law / impugned levy is concerned, the judgment in the case of *Sanofi Aventis* has settled the matter between the litigating parties and is a case of a past and closed transaction. The subsequent attempt

²³ Mehreen Zaibun Nisa v Land Commissioner (PLD 1975 SC 397)

²⁴ John Lemm v Thomas Alexander Mitchell LR (1912 AC 400)

by way of any law up to the Sindh Finance Act, 2009, does not undo the effect of such judgment, as neither any proper retrospective effect was given to the subsequent law; nor any satisfactory curative or re-validation clauses were incorporated which could pass the litmus test for doing so in terms of law settled by the superior court including that in the case of *Molasses Trading*.

15. Finally, the seventh version of the law was introduced through Sindh Development and Maintenance of Infrastructure Cess Act 2017 and the relevant provisions read as under:-

**“THE SINDH DEVELOPMENT AND MAINTENANCE OF
INFRASTRUCTURE CESS ACT, 2017**

SINDH ACT NO. XVIII OF 2017

**A N
A C T**

to consolidate the law relating to the levy of a cess on goods entering into and leaving the Province from or for outside the country through air or sea;

WHEREAS it is expedient to consolidate the law relating to the levy of a cess on goods entering into and leaving the Province from or for outside the country through air or sea, for development and maintenance of infrastructure of the Province; Preamble

It is hereby enacted as follows:-

**CHAPTER-I
PRELIMINARY**

- | | | |
|----|---|---|
| 1. | (1) This Act may be called the Sindh Development and Maintenance of Infrastructure Cess Act, 2017. | Short title,
Extent and
commencement |
| | (2) It extends to the whole of the Province of Sindh. | |
| | (3) It shall come into force at once and shall be deemed to have taken effect on and from 1 st July, 1994. | |
| 2. | In this Act, unless there is anything repugnant in the subject or context - | Definition |
| | (a) “cess” means the cess payable under section 3 of the Act; | |
| | (b) “Director” means the Director, Excise, Taxation and Narcotics Control; | |
| | (c) “Director General” means Director General, Excise, Taxation & Narcotics Control Sindh; | |
| | (d) “District Excise, Taxation and Narcotics Control Officer” means the Senior Excise, Taxation and Narcotics Control Officer or Excise, Taxation and Narcotics Control Officer of the District, having jurisdiction; | |
| | (e) “Government” means the Government of Sindh; | |

- (f) "owner" means the person in whose name the goods are entering or leaving the Province from or for outside the country by air or sea and includes the clearing agent;
- (g) "prescribed" means prescribed by rules;
- (h) "person" includes the person, entity, any company or association or body of persons, whether incorporated or not;
- (i) "Province" means the Province of Sindh;
- (j) "rules" means rules made under this Act; and
- (k) "Schedule" means Schedule appended to this Act;

**CHAPTER-II
SCOPE OF CESS**

3. There shall be levied and collected a cess **Levy of cess.**
for maintenance and development of infrastructure on goods
at the rate determined on the basis of their value, net
weight and distance in accordance with the Schedule, for
carriage by road and smooth and safer movement in the Province
upon entering or before leaving the Province from or for outside
the country, through air or sea:

Explanation: for the purpose of this section, the word "infrastructure" includes roads, streets, bridges, culverts, lights on passages, plantation on passages, beaches, public parks, place of public recreation and convenience, eating places, landscape, forests, fisheries, delta conservation, lakes, breeding places of aquatic life, wild life and its sanctuaries, public schools, vocational and technical training centers and projects, libraries, museums and similar institutions controlled and financed by the Province, control of traffic for smooth flow and safer movement of goods, public order, police force, patrol for safety of goods, stands for loading and unloading of goods, parking places, markets, water supply, hospitals and dispensaries and development, improvement, maintenance and protection of such matters".

Chapter-IV / Miscellaneous

13. Notwithstanding anything contained in any law, rules or **Validation**
Judgment, order or decree of any court the Infrastructure
Cess levied, assessed, charged and collected in pursuance
of Sindh Finance Act, 1994 and amendments thereof, before
coming into force of this Act shall be deemed to have
been validly levied, assessed, charged or collected.

16. The aforesaid Act of 2017 was made effective by virtue of section 1(3) from 1.7.1994. It also substituted the charging section to read that now the cess was levied and collected for maintenance and development of infrastructure for carriage by road and smooth and safer movement in the Province upon entering or before leaving the Province from or for outside the country, through air or sea, whereas the explanation appended thereto provided the meaning and purpose for the said levy of infrastructure cess. The precise case of the Petitioners is in respect of the legislative competence of the Province under the Constitution and whether it discriminates the petitioners in any manner or not. And lastly, whether this 2017 Act, is applicable retrospectively or not (this we

may add to the extent of litigants in the earlier round in Sanofi Aventis already stands discussed earlier). Petitioners Counsel have argued that the Province cannot legislate on the subject matter as according to them the levy in question is covered by Entries 24²⁵ 27²⁶ and 43²⁷ of the Federal Legislative List as enumerated in the Fourth Schedule to the Constitution and by virtue of Article 142(a) *ibid*, it is only the Federation which can legislate on it. Their emphasis has been that the levy in question is in fact a tax or fee on the import and export of goods as it is being levied and collected in the same manner as the Customs duty under the Customs Act, 1969, including that on *ad-valorem*²⁸ basis. With respect we do not agree. This is wholly misconceived and untenable as merely by providing a mechanism of collection of the levy in question, it would not *ipso-facto* become a customs duty, and consequently, falling within the domain of the Federal Legislature. The impugned levy in its present form is a cess for maintenance and development of infrastructure²⁹ **on goods upon entering** or before leaving the Province from or for outside the country, through air or sea **for carriage by road** and smooth and safer movement in the Province. For the present purposes the levy is only applicable and challenged upon goods entering the Province from outside the Country as for the remaining it is exempted³⁰.

17. As of today, post 18th amendment we need to look into Article 142 of the Constitution first which determines the boundaries of the Federal and Provincial Legislatures. In terms of Article 142(a) the Parliament (Federal Legislature) has the exclusive power to make laws with respect to any matter enumerated in Federal List; pursuant to Article 142(b), the Federal and Provincial Legislatures have powers to make laws with respect to criminal laws, criminal procedure and evidence; and pursuant to Article 142(c) the *Parliament / Federal Legislature shall not* and *Province shall have* power to make laws with respect to any matter not enumerated in the Federal Legislative List.

²⁵ Carriage of passengers and goods by sea or by air.

²⁶ Import and Export across customs frontiers as defined by the Federal Government, inter-provincial trade and commerce, trade and commerce with foreign countries, standard of quality of goods to be exported out of Pakistan.

²⁷ Duties of Customs, including export duties.

²⁸ An **ad valorem** tax is a tax based on the assessed value of an item, such as real estate or personal property. The most common **ad valorem** taxes are property taxes levied on real estate. The Latin phrase **ad valorem** means "according to value." So all **ad valorem** taxes are based on the assessed value of the item being taxed. [<https://www.investopedia.com/terms/a/advaloremtax.asp>]

²⁹ at the rate determined on the basis of their value, net weight and distance

³⁰ Through Notification in terms of s.6 of the 2017 Act.

Post 18th amendment the net result is that now there are (a) enumerated competences set out in the Federal List, which are exclusive to the Federation, (b) three enumerated competences which are concurrent, and (c) a whole host of non-enumerated competences which are exclusive to the Provinces³¹. Though it is also a well-settled proposition of law that an entry in a Legislative list cannot be construed narrowly or in a pedantic manner but it is to be given liberal construction in this behalf³²; however, at the same time one must take note that the present case is not that of legislation being challenged on the ground that it does not fall or is not covered within a certain legislative entry; rather it is the inverse in this case. The Provincial Legislature has ample powers to legislate on any matter not falling within any of the Entries of the Federal Legislative List. And that is the end of the matter. It is the petitioners who have come before this Court to assert that the impugned levy falls with the competence of the Federal Legislature. At the same time the Federal Legislature has not imposed any such levy; nor has the competence of the Provincial Legislature is under dispute at least by the Federation itself as has been the case in a number of laws post 18th amendment³³. It is in fact a case of residuary powers of the Provincial Legislature which has been exercised and its interpretation cannot be aligned or equated with the principles of interpretation applicable while examining the same on the touchstone of a specified Entry in the Legislative List. Unlike India, presently we do not have any Legislative List for the Provinces. In fact, as of today, post 18th amendment [subject to Article 142(b)], we do not even have any Concurrent Legislative List. It is in this context that we need to examine and interpret the legislative powers of the Province. As must be understood, it is not humanly possible to conceive all legislative fields and to overcome this, now we have a system in place which empowers the Provincial Legislature to enact laws as are not covered by any of the Entries in the Federal Legislative List. This at the same time does not permit or provides sanction or authority to the Province to legislate on any matter as it deems fit. All these powers remain circumscribed as to the intent and will of the Constitution as a whole. The main focus of the

³¹ See *Azfar Laboratories Ltd v Fed of Pakistan* (PLD 2018 Sindh 448)

³² *Elahi Cotton Mills Ltd v Federation of Pakistan* (PLD 1997 SC 582)

³³ *Shafiquddin Moinee v Federation of Pakistan* (2018 CLD 1088), *Sui Southern Gas Co. Ltd v Federation of Pakistan* (2018 SCMR 802), *Government of Sindh v Dr. Nadeem Rizvi* (2020 SCMR 1)

Petitioners Counsel against the validity of the impugned levy was in respect of its taxable event. According to them since it was being levied at the same time and in the same manner as a customs duty under the Customs Act, 1969; hence, it would fall within the competence of the Federal Legislature pursuant to Entry 43 (Duties of Customs, including export duties) of the Federal Legislative List. However, this argument is least impressive as it is not always so. A closer analysis invariably reveals that what appears to be the same event is (usually) in fact and (certainly) in law, two separate taxing events each of which falls, properly, within the scope of a distinct taxing power³⁴. This has been well defined now in respect of levy of Professional Tax, which is though a tax on income and by way of Entry 47 in the Federal List falls within the competence of the Federation; however, by way of Article 163 *ibid*, the Province (subject to limitations) can levy taxes on professions, trades, callings or employments. Hence, on the same taxing event, even both legislatures have their respective competence.

18. While hearing arguments we had confronted both lead Counsels for the petitioners that earlier in a somewhat similar manner, levy of Octroi in terms of Municipal Administration Ordinance, 1960 (X of 1960) (“**Ordinance**”), vide West Pakistan Municipal Committee Octroi Rules, 1964, has been held to be a valid levy by this Court on a number of occasions inasmuch as it was also levied and collected on Imports as “**Sea dues**” and in the same manner as Customs Duty on ad-valorem basis. In response we were assisted that ratio of such judgments³⁵ would not apply to the present levy. Precisely, according to them, taxable event for imposition of Octroi was the import of goods in the Octroi limits for consumption, use or sale within that area i.e. the goods had to be imported into the Octroi limits for the purpose of consumption, use or sale within those limits and if either of these conditions was not met, there was no taxable event and Octroi was not payable. With respect we disagree. In *Universal Merchants*³⁶ the challenge was against imposition and enhancement of rates of Octroi on liquor. At the relevant time Karachi Municipal Corporation, then functioning

³⁴ 2017 PTD 1 (Pakistan International Freight Forwarders Association v Fed of Pakistan)

³⁵ 1980 CLC 704 (Universal Merchants v Commissioner of Karachi), (2007 MLD 770) (Hyderi Ship Breaking Industries V Sindh Government) Also rep as (Shershah Industries Ltd v. Govt. of Sindh) PLD 1982 Karachi 653

³⁶ 1980 CLC 704

under the Ordinance (relevant period being between abrogation of the 1956 Constitution and before enactment of the 1962 Constitution) and when the country was being governed by virtue of certain other instruments so far as may be in accordance with the 1956 Constitution. Pursuant to section 33 of the Ordinance KMC was authorized to levy in the prescribed manner all or any of the taxes, rates, tolls and fees mentioned in the Third Schedule including Tax on the import of goods for consumption, use or sale in a municipality and Tax on the export of goods from a municipality. Further in terms of sections 35, 37, 38, 39, 41 and 121 of the Ordinance the Government had made rules which were called the **West Pakistan Municipal Committee Octroi Rules, 1964** levying Octroi and prescribing a detailed procedure for its collection at the rates specified in the Appendix to the rules. This levy was of two types. One on goods imported from abroad; and the other on goods being brought into the respective Municipal limits for sale, use or consumption. Rule 2(e) of the said Rules defined “export”³⁷, 2(i) defined “import”³⁸, 2(m) defined “octroi”³⁹, 2(s) defined “Value”⁴⁰. This levy of Octroi on Import from abroad was challenged before a Division Bench of this Court in the case of **Universal Merchants (Supra)**. The precise case of the Petitioners was that it could not be imposed at all in respect of Karachi as it was interference with the freedom of trade and commerce in the country and the only competent authority was the Federal Legislature. It was argued that item 5 of the 5th Schedule to the 1956 Constitution⁴¹ enumerates competence of the Central Legislature; hence, it was ultra vires. In fact when 1964 Rules were promulgated item 5 in the Third Schedule to the 1962 Constitution⁴² was somewhat similar in nature. At Para 6 of the judgment the Court observed as follows;

6. Assuming, however, for the sake of argument in favour of the petitioners that the Municipality cannot, under the Ordinance, impose a tax in any field which belongs to the exclusive competence of the Central Legislature I still do not think that Octroi is such a tax as come within the relevant item which I have quoted from the 1956 and the 1962 Constitutions. It is true of course that goods which enter the city of Karachi may be entering from a province other than the one in which Karachi

³⁷ Means export from the octroi limits.

³⁸ Means import within the octroi limits

³⁹ Means a tax on the import of goods for consumption, use, or sale within the octroi limits

⁴⁰ Means the price which shall include cost, insurance, freight, custom duty, sales tax and any other levy determined by the custom authorities;

⁴¹ Trade and Commerce between Provinces and with Foreign countries; import and export across Customs Frontiers.

⁴² "Trade and Commerce between the Provinces and with other countries, including (a) import and export across Customs Frontiers; and (b) standards of quality of goods to be exported out of Pakistan."

is situate or even from outside the country altogether. The tax is nevertheless a tax upon the import of goods for consumption, use or in a Municipality. The purpose of the tax, therefore, is to levy a charge upon goods which are brought in, not only within the city but for consumption, use or sale within the City. If goods are landed from abroad but are not intended for such consumption sale or use but are intended to be so used, let us say, in Lahore, then, Octroi would not be leviable. The entire purpose of making the Central Legislature, the authority who alone is competent to legislate upon inter-provincial trade and trade with foreign countries, is to allow it to have control over such trade. Octroi on the other hand is a charge upon import within a city. The fact that in a given case the goods may happen to come from another province or from outside the country is incidental and besides the point. Even so if they are not intended for use in the city the tax would not be chargeable. The argument, therefore, I think is wholly fallacious Octroi, is not a tax which is concerned with inter-provincial trade or trade with' foreign countries and is, therefore, within the competence of the Provincial Legislature and therefore of the Municipality.

19. This judgment was then followed in the case of **Sher Shah Industries**⁴³ and **Hyderi Ship Breaking**⁴⁴ by another Division Bench of this Court, which even went further and also dilated upon the issue and interpretation of the words “**Import**” on which much stress was laid by the Petitioners Counsel before us. The petitioners in that case had imported a Vessel for scrapping and dismantling which arrived at the Outer Anchorage of the Port, which location, according to the petitioners, was outside the Karachi Port, and was then taken directly to Gadani Beach, in Lasbella District of the Province of Baluchistan. There it was scrapped and when petitioners wanted to bring the ship scrap into Karachi by road, Octroi was demanded at the rate of 2 % ad valorem of the duty paid value of the vessel pursuant to Schedule A of the Rules applicable to all imported goods. The petitioners were willing to pay Octroi at Rs. 3.50 per ton on the scrap being brought by them into Karachi Municipal limits through trucks via R. C. D. Highway, and challenged the demand of Octroi at 2 % ad valorem of the duty paid value of the vessel. When this petition was being heard the provisions under consideration were of the interim Constitution of 1972 and the 1973 Constitution. It was contended by the Petitioners that Octroi in question though described as Octroi, was actually a “*customs or import duty*” which is a Federal subject under the two Constitutions and the Provincial Government by levying such Octroi duty has transgressed the Federal field of legislation, and in support reliance was placed on Article 138 and the entries of the Federal Legislative

⁴³ PLD 1982 Kar.653

⁴⁴ 2007 MLD 770

list contained in the Fourth Schedule to the 1972 Interim Constitution⁴⁵. The finding of the Court is as under;

As observed earlier, "Octroi" has been defined in the 1964 Octroi Rules as a .tax on the "import" of goods for consumption, use or sale within the Octroi limits, and "import" has been defined as import within the Octroi' limits, therefore, does not attract Octroi but the import within the Octro' limits must also be coupled with the purpose of consumption, use or sale within the Octroi limits. Unless Octroi is equated with customs duty, do not see how such tax falls within the items of Federal Legislative Lists of the two Constitutions of 1972 and 1973 pointed out by .the learned counsel. We say so as by Item No. 47 of the Provincial List of the Fourth Schedule to the Interim-Constitution, framers of that constitution specifically and with clarity included Octroi within the Provincial Legislative field. Item 47 reads as follows;--

"Cesses on entry of goods into a local area for consumption, use or sale therein."

Now in the Interim-Constitution of 1972, apart from the Federal and Concurrent Lists, there was a separate Provincial Legislative List, whereas in the 1973 Constitution there are only two Legislative List namely the Federal Legislative List and the concurrent Legislative List. However, Article 142(c) of 1973 Constitution provides that "Provincial Assembly shall, and Parliament shall not, have power to make laws with respect to any matter not enumerated in either the Federal Legislative List or the concurrent Legislative List. It may be mentioned here that Article 142 remains intact and has not been deleted by the Provincial Constitution Order; 1981. Subject contained in Item 47 of the Provincial Legislative List of the Interim-Constitution, 1972 is neither mentioned nor covered by any item of the two Legislative Lists of the 1973 Constitution. The only logical conclusion is that by virtue of Article 142(c) of the 1973 Constitution, the Subject "Cesses on entry of goods into a local area for consumption, use or sale therein falls squarely" within the Provincial Legislative field....."

We may now examine the other limb of the argument of the learned counsel for the petitioners that Octroi on goods imported by sea is in essence and reality a duty of customs but in the garb of Octroi. According to Mr. Khurshid Anwar Shaikh as Octroi becomes leviable as soon as the goods are imported into Karachi from abroad, the notifications of 15-6-1973 are in effect imposing a duty of customs. Mr. A. A. Fazeel, learned counsel for K. M. C., referred us to a Division Bench judgment of this Court in the case of *Universal Merchants v. Commissioner of Karachi* 1980 C L C 704, and urged that this point has been considered and decided in that judgment. In paragraph 4 of the said judgment it is observed as under;

We are in respectful agreement with the aforesaid observations. Octroi tax has been clearly distinguished from other taxes and the basic reason is that .it' is a tax "upon goods which are brought in not only within the city but for consumption, use or sale within the city." In our view Octroi tax on good's coming from abroad and entering the

⁴⁵ "Item. 19.-Import and export across customs frontiers as defined by the Federal Government, trade and commerce between the Provinces and foreign countries; standard of quality of goods to be exported out of Pakistan.

Item 26.-Carriage of passengers and goods by sea or by air.

Item 45.-Duties of customs, including export duties.

Item 61.-Terminal taxes on goods or passengers carried by railway, sea or air; taxes on their fares and freights.

Item 65.-Matters incidental or ancillary to any matter enumerated in this (Federal) List."

municipal Octroi limits for the purpose) of consumption, use or sale within the Octroi limits cannot be equated with duties of customs.

20. Though the learned Counsel for the Petitioners emphatically contended that these two judgments do not support the case of the Respondents and in fact they are supportive of the stance taken by the Petitioners inasmuch as the reason which prevailed upon the learned Benches to uphold the levy of Octroi on imports was due to the fact the goods were being either sold, used or otherwise consumed within the Municipal limits. However, with respect we are not in agreement with such suggestion put forth by them. The goods in that case were coming from abroad admittedly; the levy was on ad-volaram basis; it was on all imported goods; and lastly was being collected in the same manner and at the same time as the Customs Duty. Secondly, **Shershah Industries (supra)** has also dealt with somewhat similar situation while dilating upon the position with respect to the interim Constitution of 1972. The Interim-Constitution of 1972, apart from the Federal and Concurrent Lists, also had a separate Provincial Legislative List. On the other hand the 1973 Constitution only had two Legislative Lists namely the Federal Legislative List and the Concurrent Legislative List. In somewhat similar manner as it is today, in terms of Article 142(c) of the 1973 Constitution Provincial Assembly shall, and Parliament shall not, have power to make laws with respect to any matter not enumerated in either the Federal Legislative List or the Concurrent Legislative List. Since the subject contained in Item 47⁴⁶ of the Provincial Legislative List (List-II) of the Interim-Constitution, 1972 was neither mentioned nor covered by any item of the two Legislative Lists of the 1973 Constitution, the learned Division Bench observed that the only logical conclusion is that by virtue of Article 142(c) of the 1973 Constitution, the Subject "*Cesses on entry of goods into a local area for consumption, use or sale therein*" falls squarely within the Provincial Legislative field. This reasoning of the Court is very relevant and pertinent for the present purposes. And this is for the reason that in the present context the scope of Provincial Legislature has not been curtailed in any manner pursuant to the 18th Amendment. It is not that the said item or

⁴⁶ Cesses on the entry of goods into a local area for consumption, use or sale therein.

entry has been included in the Federal Legislative List. Neither by express words nor by implication. Rather it is left open and remains available to the Provincial Legislature. Therefore, the argument that since the impugned levy in question is on ad-valoram basis and is being collected on imported goods, it becomes a Customs Duty; and in terms of Entry 43 of the Federal Legislative List, it is only the Federation which is competent to levy and impose it, is neither convincing nor is supported by the precedents discussed as above. In fact, in our considered view, the two judgments as above are contrary to what has been argued before us.

21. Subsequently, another Division Bench of this Court in the case of ***Pakistan International Freight Forwarders***⁴⁷ has also followed and endorsed this view regarding similarity in the taxing event and the competence of the Federal and Provincial Legislature at the same time. What one understands from this is that despite there being various Entries in the Federal Legislative List which are analogous to the present Entries under discussion and relied upon by the Petitioners, earlier, the Province by way of a specific Entry in its Legislative List, and thereafter, by way of Concurrent List, has been declared to be competent to levy a tax on import of goods from abroad (notwithstanding its consumption within certain limits), and such Entry i.e. 47 from the Interim Constitution having not been incorporated into the Federal Legislative List, remains available simultaneously to the Provincial Legislature irrespective of the fact that presently there is no specific List for it after the 18th Amendment. Hence, the argument that the impugned levy is in fact a Customs Duty being levied and collected in the same manner on ad-valoram basis, therefore, cannot be sustained is not correct and is hereby repelled.

22. In ***Azfar Laboratories (Supra)*** before a learned Division Bench of this Court it was contended that insofar as residual non-enumerated powers are concerned, they did not constitute specific legislative fields or competences. The Court did not agree with this. It was observed that when the 18th Amendment omitted the Concurrent List and most of its entries became non-enumerated powers exclusive to the Provinces, they did not disappear into some undifferentiated mass of legislative power and remained what they

⁴⁷ 2017 PTD 1

had been before: distinct and discrete legislative fields. Thus the huge swaths of legislative power that are exclusive to the Provinces comprise of specific and discrete legislative fields or competences, which are known with particularity.

23. Now coming to the second limb of the argument of the Petitioners Counsel that levy of Octroi was declared valid and intra vires only because it was on goods which were being sold, used or otherwise consumed within certain Municipal Limits and not on goods in transit. To that we may be observe that this again is not correct and is misconceived. In the impugned legislation a very specific purpose has been provided for the imposition of the levy i.e. *“for maintenance and development of infrastructure for carriage by road and smooth and safer movement of goods entering or before leaving the Province from or for outside the country, through air or sea”*. This in our view suffices and fulfills the requirement for imposition of the levy in question. It is no more a fee after the 3rd version and is a cess. It provides very clearly in the enactment the basic purpose and reason for justifying the impugned levy. It is no more a case of any fee or its quid pro quo; hence, to this extent, the impugned levy cannot be challenged. The Honorable Supreme Court in the case of ***Khurshid Soap and Chemical***⁴⁸ has been pleased to hold that if there is a declared purpose for imposition of a levy which comes with a promise to bring some benefit or advantage in future which is basically meant for its payers, and if such benefit or advantage is made available on the ground may be availed by others as well, but that would not change the status of such fee-levying enactment, and would remain a valid levy. The crux of the judgment is that if a cess is imposed with a specific purpose then it is distinct from a fee and does not require fulfillment of the doctrine of quid pro quo; and cannot be challenged to this extent. The relevant finding reads as under:

20. “.....The other kind of a fee-levying legislation is where Cess is imposed as a compulsory exaction in the same manner where taxes are imposed with the distinction that it is imposed for achieving a specific purpose promised in the enactment itself which when realized would bring some advantage or benefit for the payers in future. It can be described as 'purpose specific' and in many judicial pronouncements have been termed as 'Cess-fee'. In such a form of levy, the specified purpose is pre-committed to the payers before the revenue is collected under the legislation. To quote a few examples, Cess is imposed to

⁴⁸ PLD 2020 SC 641 *Khurshid Soap & Chemical Industries Ltd v Federation of Pakistan*

meet the extraordinary costs involved in providing infrastructure such as construction of dams or for importing oil or gas from abroad through pipelines or to build farm to mill roads in order to facilitate marketing of the agricultural produce or for conducting research and development in some specialized field. In such a form of levy the rule of quid pro quo does not exist in the same sense as it exists in a case where an existing service is rendered or a privilege is extended directly to the payer for a fee. What needs to be taken into consideration is whether the enactment has promised some benefit or advantage for the payers to be made available in future by utilizing the revenue, making it more akin to a fee than a pure revenue raising measure like taxes in general are imposed with no precondition attached for their spending.....”

24. The basic difference between the enactment where fee-simplicitor is imposed and where Cess-fee is imposed is that in the former a service or a privilege is made available to the payer directly on the strict principle of quid pro quo whereas in the latter case, the declared purpose comes with a promise to bring some benefit or advantage in future which is basically meant for its payers. Such benefit or privilege once made available on the ground may be availed by others as well but that would not change the status of such fee-levying enactment. It would remain a specie of fee-levying enactment in contradistinction to tax-levying enactment in which no specific purpose or specific service needs to be disclosed by the legislature in order to justify its imposition.

24. When an issue arises as to interpreting apparent conflicting legislative entries when there are distinct entries for Federal and Provincial Legislatures, even in that situation it is not that the Court would always arrive at a conclusion that either of them has the competency to do so. It is but natural that in this situation controversies do arise as to the competency and as to who is exceeding its own domain and encroaching upon the others. In that case it is not the name of the tax; but its real nature i.e. the “*pith and substance*” that determines into what category or in whose domain such legislation would fall. In *Governor General*⁴⁹, the Privy Council laid down important principles for interpreting apparently conflicting Legislative Entries in general and tax entries in particular. It was held, first, that though a tax may overlap, in fact there would be no overlapping, if the taxes were separate and distinct imposts; secondly, that the machinery of tax collection did not affect the real nature of a tax. Another principle for reconciling apparently conflicting tax entries follows from the fact that a tax has two elements; the person, thing or activity on which tax is imposed, and the amount of the tax. The amount may be measured in many ways; but decided cases establish a clear distinction between the subject matter of a tax and the standard by which the amount of tax is measured. These two elements are described as the subject or a tax and the measure of a tax. This was also quoted with approval by the

⁴⁹ *Governor General in Council v Madras* (1945 FCR 179)

Supreme Court of India in *D.G.Gouse*⁵⁰ as stating precisely the two elements involved in almost all tax cases, namely the subject of a tax and the measure of a tax. The conclusion for this kind of a situation is that principles of interpretation of conflicting Entries of Legislation cannot be placed in a strait jacket formula and it will vary, primarily depending upon the subject matter of the legislation in issue. Here in the matter in hand we do not even have such an issue, as Federal Legislature is not disputing the Provincial Legislatures exercise of powers in enacting legislation in respect of the impugned levy. Even where there have been separate entries for the Federal and Provincial Legislature, the Courts have, by applying the pith and substance principle validated such exercise of powers by either of the Legislatures. In determining the pith and substance of an existing law, one has only to look at the law itself regardless of its provenance under whatever constitutional dispensation it had originally been enacted. If it related to none of the entries in either of the Lists then it fell in the exclusive provincial domain and became a provincial law (coming also within the Federal domain but only in relation to those areas of Pakistan that did not form part of a Province, being effectively and principally the Capital)⁵¹. The pith and substance of the legislated subject is to be examined to determine in whose legislative sphere a particular subject comes under. And above all a reasonable interpretation which does not produce impracticable results should be adopted⁵².

25. It is settled law that there is always a distinction between the object of tax, the incidence of tax and the machinery for the collection of the tax. The distinction is important and shall always be kept in consideration. Legislative competence is to be determined with reference to the object of the levy and not with reference to its incidence or machinery. Here in the impugned levy the imposition is on goods which are using the infrastructure of the Province after having landed at Port from abroad. Almost the entire cargo being imported in the Country routs through the Province of Sindh, and for that the Provincial

⁵⁰ *D.G.Gouse v Kerala* [1980] 1 SCR 804

⁵¹ *Shafiquddin Mominee v Federation of Pakistan* (2018 CLD 1088)

⁵² *Sindh Revenue Board v Civil Aviation Authority* (2017 SCMR 1344)

Legislature thought it appropriate to impose a certain amount of tax in the form of a cess. It is though being collected from an Importer of goods; but in essence it is not on imports; but for maintenance and development of infrastructure on imported goods. Since goods using this infrastructure by itself cannot pay; nor can it be so recovered, and has to be recovered from someone i.e. the importers. The importers in this case are then persons having a direct control, connection, possession and nexus with these goods, and therefore, can be called to pay the impugned levy. And this to us seems to be fine and within the legislative competence of the Province. At the most it is only an expedient and convenient manner for which it has been levied at the stage of imports and nothing more.

26. In view of the above discussion it is hereby declared that insofar as the *first four versions* of the law / impugned levy is concerned, the same has no applicability on the petitioners who had earlier challenged the same and were before the Court in *Sanofi Aventis*; as the said judgment has attained finality and is a case of past and closed transaction. It is further held that The Sindh Finance Act, 2017, promulgated retrospectively with effect from 1.7.1994 is a valid law, within the competence of the Provincial Legislature and is applicable retrospectively; however, barring the Appellants in *Sanofi Aventis*.

27. Accordingly, in view of hereinabove facts and circumstances, all listed petitions are disposed of in the following terms;

- a. Insofar as the first four versions of law introduced through Sindh Finance Act, 1994, amended through Sindh Finance Act, 1996, the Sindh Finance (Amendment) Ordinance, 2001, and the Sindh Finance (Second Amendment) Ordinance, 2001 are concerned, their applicability on the petitioners who had litigated earlier and were Appellants in ***Sanofi Aventis***⁵³, has attained finality and is a past and closed transaction, notwithstanding promulgation of its fifth version vide Sindh Finance (Amendment) Ordinance, 2006, further amended by The Sindh Finance (Amendment) Act, 2007 (Sindh Act No: II of 2007, and The Sindh Finance (Amendment) Act, 2009 (Sindh Act No: III of 2009);

⁵³ PLD 2009 Karachi 69

- b. The Sindh Finance Act, 2017, promulgated retrospectively with effect from 1.7.1994 is a valid law within the competence of the Provincial Legislature under the Constitution and is applicable retrospectively; however, [subject to (a) as above];
- c. All imposition and collection of the impugned levy with effect from 1.7.1994 pursuant to section 1(3) of the Sindh Finance Act, 2017, being retrospective in effect has been validly done and collected; again however, [subject to (a) as above];
- d. All Bank Guaranteed furnished by the petitioners up to 27.12.2006 who had litigated earlier and were Appellants in **Sanofi Aventis** shall stand discharged; whereas those furnished by them on or after 28.12.2006 shall be en-cashed and paid to the department;
- e. All Bank Guarantees furnished by rest of the Petitioners not covered at (a) as above, shall be en-cashed and paid to the department;
- f. The operation of this judgment, considering the intricacy and the issue involved is hereby suspended for a period of 90 days from today; and in the meantime the earlier arrangement for release of the petitioners consignments shall continue on the same terms;

28. All listed petitions are disposed of in the above terms.

Dated: 04.06.2021

J U D G E

J U D G E

Arshad/

Annexure “A”

1.	<u>Const. P.D 1598/2011</u>	Pakistan Tobacco Co Ltd VS Prov of Sindh & Ors
2.	<u>Const. P.D 1654/2011</u>	Muhammad Iqbal Bilwani & another VS The Province of Sindh and another
3.	<u>Const. P.D 1655/2011</u>	Muhammad Iqbal Bilwani & another VS The Province of Sindh and another
4.	<u>Const. P.D 1656/2011</u>	Salman Mir and another VS The Province of Sindh and another
5.	<u>Const. P.D 1657/2011</u>	Qamar Abbas & another VS The Province of Sindh and another
6.	<u>Const. P.D 1662/2011</u>	M/S The Paracha Textile Mills Ltd VS Province of Sindh and Another
7.	<u>Const. P.D 1668/2011</u>	ICI Pakistan Ltd VS Prov. of Sindh and others
8.	<u>Const. P.D 1669/2011</u>	Amer cotton Mills Pvt Ltd VS Prov of sindh and others
9.	<u>Const. P.D 1671/2011</u>	Nishat Mills Ltd VS Province of Sindh and Others
10.	<u>Const. P.D 1673/2011</u>	Indus Motors Co. Ltd. VS Prov. of Sindh & Ors
11.	<u>Const. P.D 1674/2011</u>	Nishat(Chunian) Ltd., VS Province of Sindh & Ors.
12.	<u>Const. P.D 1676/2011</u>	Jubilee Spinning & Weaving Mills Ltd VS Province of Sindh and Another
13.	<u>Const. P.D 1678/2011</u>	Premium Textile Mills Ltd VS Prov of Sindh & Ors
14.	<u>Const. P.D 1681/2011</u>	M/s Azam Textile Mills Ltd VS Province of Sindh and Another
15.	<u>Const. P.D 1687/2011</u>	Gulshan Spinning Mills Ltd VS Province of Sindh and Another
16.	<u>Const. P.D 1689/2011</u>	Lotle Pakistan PTA Ltd. VS Prov. of sindh and others
17.	<u>Const. P.D 1693/2011</u>	Pakistan State Oil Co Ltd VS Province of Sindh and Another
18.	<u>Const. P.D 1694/2011</u>	Crescent Steel & Allied Products Ltd. VS The Province of Sindh and another
19.	<u>Const. P.D 1695/2011</u>	Sanofi Aventis Pakistan Ltd VS Prov of Sindh & Ors
20.	<u>Const. P.D 1699/2011</u>	Nishat Paper Products Company Limited VS The Province of Sindh and another
21.	<u>Const. P.D 1700/2011</u>	D.G Khan Cement Company Limited VS The Province of Sindh and another
22.	<u>Const. P.D 1701/2011</u>	Reckitt Benckiser Pakistan Limited VS The Province of Sindh and another
23.	<u>Const. P.D 1726/2011</u>	International Industries Limited VS The Province of Sindh and another
24.	<u>Const. P.D 1727/2011</u>	Shabbir Tiles & Ceramics Limited VS The Province of Sindh and another
25.	<u>Const. P.D 1728/2011</u>	Agriauto Industries Limited VS The Province of Sindh and another
26.	<u>Const. P.D 1729/2011</u>	Dynea Pakistan Limited VS The Province of Sindh and another
27.	<u>Const. P.D 1730/2011</u>	Au Vitronics Limited VS The Province of Sindh and another
28.	<u>Const. P.D 1754/2011</u>	M/s Umer Spinning Mills (Pvt)Ltd VS Province of Sindh & another
29.	<u>Const. P.D 1756/2011</u>	M/S Acro Spinning & Weaving Mills Pvt Ltd VS Province of Sindh and Another
30.	<u>Const. P.D 1757/2011</u>	Rawal Textile Mills Ltd. VS Province of Sindh and others
31.	<u>Const. P.D 1759/2011</u>	Bestway Cement Ltd. VS Province of Sindh & Ors.
32.	<u>Const. P.D 1766/2011</u>	M/s Mahmood Textile Mills Ltd VS Province of Sindh
33.	<u>Const. P.D 1776/2011</u>	Naveena Industries Ltd VS Province of Sindh and Another
34.	<u>Const. P.D 1778/2011</u>	M/S Naveena Experts Ltd VS Province of Sindh and Another
35.	<u>Const. P.D 1781/2011</u>	M/s Masood Fabrics Ltd VS Province of Sindh
36.	<u>Const. P.D 1798/2011</u>	Salfi Textile Mills Limited vs The Province of Sindh & others
37.	<u>Const. P.D 1799/2011</u>	Island Textile Mills Limited vs the Province of Sindh & others
38.	<u>Const. P.D 1800/2011</u>	Tata Textile Mills Limited vs the Province of Sindh & others
39.	<u>Const. P.D 1805/2011</u>	M/s Artistic Apparels Pvt Ltd VS Province of Sindh and Another
40.	<u>Const. P.D 1808/2011</u>	M/s Masood Spinning Mills Ltd VS Province of Sindh
41.	<u>Const. P.D 1809/2011</u>	Inter Loop Ltd VS Prov os Sindh & Ors
42.	<u>Const. P.D 1812/2011</u>	Margalla Textile Mills Ltd. VS Province of Sindh and others

43.	<u>Const. P.D 1817/2011</u>	M/S Colony Industries Pvt Ltd VS Province of Sindh and Another
44.	<u>Const. P.D 1819/2011</u>	M/S Roomi Fabrics limited VS Province of Sindh & ors
45.	<u>Const. P.D 1820/2011</u>	M/S Fazal Rehman Fabrics Limited VS Province of Sindh and Another
46.	<u>Const. P.D 1821/2011</u>	Olympia Blended Fibre Mills Ltd. VS Province of Sindh and others
47.	<u>Const. P.D 1823/2011</u>	Prsperity Weaving Mills Ltd VS Province of Sindh and Another
48.	<u>Const. P.D 1826/2011</u>	Engro Eximp (Pvt) Ltd. VS The Province of Sindh & ors.
49.	<u>Const. P.D 1827/2011</u>	Engro Polymer VS P.DO Sindh and others
50.	<u>Const. P.D 1828/2011</u>	Engro Fertilizers Limited VS The Province of Sindh & ors.
51.	<u>Const. P.D 1829/2011</u>	Engro Foods ltd VS P.DO Sindh & others
52.	<u>Const. P.D 1830/2011</u>	Engro Foods Supply VS P.DO Sindh & others
53.	<u>Const. P.D 1833/2011</u>	M/S Waheed Hafeez Ghee Pvt Ltd VS Province of Sindh and Another
54.	<u>Const. P.D 1842/2011</u>	M/S Hussanian Daud Oil & Ghee Mills (Pvt)Ltd VS Province of Sindh and Another
55.	<u>Const. P.D 1849/2011</u>	M/S Ab Wahid Ab. Majid Pvt Ltd VS Province of Sindh and Another
56.	<u>Const. P.D 1850/2011</u>	M/S Al-Hilal Vegetable Ghee Mills Pvt Ltd VS Province of Sindh and Another
57.	<u>Const. P.D 1866/2011</u>	Pakistan Cables Limited VS The Province Sindh & another
58.	<u>Const. P.D 1867/2011</u>	Siddiqsons Tin Plate Ltd. VS The Province of Sindh and another
59.	<u>Const. P.D 1868/2011</u>	Maple Leaf Cement Factory Ltd. VS The Province of Sindh & another
60.	<u>Const. P.D 1873/2011</u>	M/s Stallion Textiles Pvt Ltd VS Province of Sindh and Another
61.	<u>Const. P.D 1882/2011</u>	Al-Nasr Textile Ltd VS Prov of Sindh & Ors
62.	<u>Const. P.D 1884/2011</u>	M/S Hassan Limited VS Province of Sindh and Another
63.	<u>Const. P.D 1887/2011</u>	Adil Enterprise VS Province of Sindh and Another
64.	<u>Const. P.D 1891/2011</u>	M/S Nishat (Chunian) Power Ltd VS Province of Sindh and Another
65.	<u>Const. P.D 1899/2011</u>	M/s Olympia Blended Fibre Mills Ltd VS Province of Sindh and Another
66.	<u>Const. P.D 1900/2011</u>	Ahmed Hassan Textile Mills VS Prov of Sindh & Ors
67.	<u>Const. P.D 1911/2011</u>	M/S Bismillah Textiles Ltd VS Province of Sindh and Another
68.	<u>Const. P.D 1920/2011</u>	Mohammad Younus Abbasi VS Prov of Sindh & Ors
69.	<u>Const. P.D 1921/2011</u>	Resham Textiles Industries Ltd VS Province of Sindh and Another
70.	<u>Const. P.D 1946/2011</u>	Shafi Texcel Ltd VS Prov of Sindh & ors
71.	<u>Const. P.D 1979/2011</u>	M/S Eastern Spinning Mills Ltd VS Province of Sindh and Another
72.	<u>Const. P.D 1995/2011</u>	M/S Waheed Traders VS Province of Sindh and Another
73.	<u>Const. P.D 1996/2011</u>	M/S Niaz Soap Factory VS Province of Sindh and Another
74.	<u>Const. P.D 2013/2011</u>	Ejaz Spinning Mills Ltd VS Province of Sindh and Another
75.	<u>Const. P.D 2043/2011</u>	Master Textile Mills Ltd VS Province of Sindh and Another
76.	<u>Const. P.D 2058/2011</u>	Dura Industries (Pvt)Ltd VS Province of Sindh and Another
77.	<u>Const. P.D 2060/2011</u>	M/s Ruby Textile Mills Ltd VS Province of Sindh and Another
78.	<u>Const. P.D 2091/2011</u>	Premier Formica Industries Ltd VS Prov of Sindh & Ors
79.	<u>Const. P.D 2092/2011</u>	M/s Mohsin Match Factory Pvt Ltd VS Province of Sindh and Another
80.	<u>Const. P.D 2142/2011</u>	M/S Internatoional Steel Ltd VS Prov of Sindh & Ors
81.	<u>Const. P.D 2257/2011</u>	Bhimra Textile Mills Pvt Ltd VS Prov of Sindh & Ors
82.	<u>Const. P.D 2312/2011</u>	M. Shafi Tanneries pvt ltd VS Prov. of Sindh & ors
83.	<u>Const. P.D 2314/2011</u>	Shafi Clucochem Pvt Ltd VS Prov. of Sindh and ors
84.	<u>Const. P.D 2502/2011</u>	M/S Mehboob Tube Mills VS Prov. of Sindh and ors
85.	<u>Const. P.D 2684/2011</u>	M/S Artistic Denim Mills Ltd VS Prov. of Sindh and another
86.	<u>Const. P.D 2751/2011</u>	M/S Flexipack Films VS The Prov. of Sindh and ors

87.	<u>Const. P.D 2753/2011</u>	M/S Ismail Industries Ltd VS Prov. of Sindh and ors
88.	<u>Const. P.D 2800/2011</u>	Procter & Gamble Pakistan Pvt Ltd VS Prov. of Sindh and ors
89.	<u>Const. P.D 2962/2011</u>	Sitara Auto Impex VS Secretary Revenue and ors
90.	<u>Const. P.D 3041/2011</u>	Capital Industries Pvt Ltd VS Prov. of Sindh and others
91.	<u>Const. P.D 3043/2011</u>	Diamond Products Pvt. Ltd. VS Prov. of Sindh and others
92.	<u>Const. P.D 3045/2011</u>	Shaffi Chemical Industries Ltd. VS Prov. of Sindh and others
93.	<u>Const. P.D 3046/2011</u>	Diamond Home Textile Pvt. Ltd VS Prov. of Sindh and others
94.	<u>Const. P.D 3047/2011</u>	Diamond Tyres Ltd. VS Prov. of Sindh and others
95.	<u>Const. P.D 3084/2011</u>	BASF Pakistan Pvt. Ltd VS Prov. of Sindh and ors
96.	<u>Const. P.D 3085/2011</u>	BASF Chemicals & Polymers Pakistan Pvt Ltd VS Prov. of sindh and ors
97.	<u>Const. P.D 3129/2011</u>	M/S Samin Textiles Mills Ltd VS Prov. of Sindh and ors
98.	<u>Const. P.D 3167/2011</u>	M/S Sheikh Pipe Mills VS Prov. of sindh and ors
99.	<u>Const. P.D 3349/2011</u>	Pak Denim Ltd., VS Province of Sindh & Ors.
100.	<u>Const. P.D 3560/2011</u>	M/S Pakistan Petroleum Ltd. VS Prov. of Sindh & Ors.
101.	<u>Const. P.D 4122/2011</u>	Shakeel Ahmed & Ors. VS Province of Sindh & Ors.
102.	<u>Const. P.D 4123/2011</u>	Shakeel Ahmed & Ors. VS Province of Sindh & Ors.
103.	<u>Const. P.D 4169/2011</u>	M/S Pak Elektron Ltd. VS Province of Sindh & Ors.
104.	Const. P.D 1764/201 1	Indus Home Ltd VS Province of Sindh
105.	Const. P.D1933/2011	M/s. Lahore Feeds Ltd. VS. Province of Sindh
106.	Const. P.D 2002/2011	M/s Javed Impex VS Province of Sindh
107.	Const. P.D 1675/2011	The Cresnet Textile Mills Ltd Vs. Province of Sindh
108.	Const. P.D 1818/2011	Fatima Enterprises Ltd VS Province of Sindh
109.	Const. P.D 1885/2011	Naseem Exports Ltd. VS Province of Sindh
110.	Const. P.D 1670/2011	Sapphire Textile Mills Ltd VS Province of Sindh
111.	Const. P.D1822/2011	Bhanero Textile Mills Ltd VS Province of Sindh
112.	Const. P.D2147/2011	Apollo Textile Mills Ltd. VS Province of Sindh
113.	Const. P.D2051/2011	Kamal Textile Mills Ltd. VS Province of Sindh
114.	Const. P.D1978/2011	M/s Eastern Lether Co. Pvt Ltd. VS Province of Sindh
115.	Const. P.D 1639/2011	Gulistan Spinning Mills VS Province of Sindh
116.	Const. P.D 1640/2011	Unilever Pakistan Foods VS Province of Sindh
117.	Const. P.D2014/2011	Ejaz Dyeing & Finishing Mills VS Province of Sindh
118.	Const. P.D1653/2011	Mapak Edible Oils Pvt Ltd. VS Province of Sindh
119.	Const. P.D1811/2011	Firhaj Footwear Pvt Ltd. VS Province of Sindh
120.	Const. P.D 1647/2011	Diamond Fabric VS Province of Sindh
121.	Const. P.D 1667/2011	Muhammad Ahmed VS Province of Sindh
122.	Const. P.D 1661/2011	Faisal Export Pvt Ltd. VS Province of Sindh
123.	Const. P.D 1991/2011	Al Hamd Edible Oil Industries (Pvt) Ltd. VS Province of Sindh
124.	Const. P.D1780/2011	Artistic Apparels VS Province of Sindh
125.	Const. P.D 1852/2011	ACP Oil Mills Pvt. Ltd VS Province of Sindh
126.	Const. P.D 1762/2011	Sunrays Textile Mills Ltd. VS Province of Sindh
127.	Const. P.D 1664/2011	Hafeez Ghee & General Mills VS Province of Sindh
128.	Const. P.D 1642/2011	M/s Gulshan Waving Mills VS Province of Sindh
129.	Const. P.D 1761/2011	Feroz Textile VS Province of Sindh
130.	Const. P.D 1837/2011	M/s Taj Vegetable oil Processing Unit Pvt Ltd. VS Province of Sindh

131.	Const. P.D 1666/2011	M/s Shakoo Pvt Ltd. VS Province of Sindh
132.	Const. P.D 2122/2011	M/s Agritech Limited VS Province of Sindh
133.	Const. P.D 1677/2011	Dossa Cotton & General Trading Pvt. Ltd. VS Province of Sindh
134.	Const. P.D 1875/2011	M/s Colony Sugar Mills VS Province of Sindh
135.	Const. P.D 1814/2011	M/s Quetta Textile Mills Ltd. VS Province of Sindh & others
136.	Const. P.D 1738/2011	Adeel Hamza Oil Ind. VS Province of Sindh
137.	Const. P.D 1660/2011	Hafeez Iqbal Oil & ghee VS Province of Sindh
138.	Const. P.D 1672/2011	M/s Sapphire Textile Mills Ltd VS Province of Sindh
139.	Const. P.D 1910/2011	M/s Premier Clipboard Industries (Pvt) Ltd VS Province of Sindh
140.	Const. P.D 1915/2011	M/s A-J Match (Pvt) Ltd VS Province of Sindh
141.	Const. P.D 2061/2011	M/s Ishaq Textile Mills Ltd VS Province of Sindh
142.	Const. P.D 1851/2011	M/s Khadija Edible Oil Refinery Pvt Ltd. VS Province of Sindh
143.	Const. P.D 1942/2011	Amin Feroz & Company VS Province of Sindh
144.	Const. P.D 1892/2011	M/s Suraj Fertilizer Ind. Pvt Ltd. VS Province of Sindh
145.	Const. P.D 1773/2011	Ahmed Fine Textile Mills VS Province of Sindh
146.	Const. P.D 1770/2011	Olympia Spinning & Weaving Mill VS Province of Sindh
147.	Const. P.D 1686/2011	Gulistan Textile Mills VS Province of Sindh
148.	Const. P.D 2815/2011	Capital Industries Enterprises Pvt Ltd. VS Province of Sindh
149.	Const. P.D 1824/2011	Nadeem Textile Mills VS Province of Sindh
150.	Const. P.D 1806/2011	Faisal Spinning Mills VS Province of Sindh
151.	Const. P.D 1934/2011	M/s Olympia Chemical Ltd. VS Province of Sindh
152.	Const. P.D 2078/2011	M/s Kohat Textile Mills Ltd. VS Province of Sindh
153.	Const. P.D 1710/2011	Al-Saeed Enterprises VS Province of Sindh
154.	Const. P D 1771/2011	Din Textile Mills Ltd. VS Province of Sindh
155.	Const. P.D1 646/2011	M/s Naeelam Textile Mills Ltd VS Province of Sindh
156.	Const. P.D1896/2011	Ayesha Textile Mills Pvt Ltd. VS Province of Sindh
157.	Const. P.D1706/2011	M/s MIMA Leather Pvt Ltd VS Province of Sindh
158.	Const. P.D1665/2011	M/s Habib Oil Mills (Pvt) Ltd. VS Province of Sindh
159.	Const. P.D1711/2011	M/s Soya Weaving Mills (Pvt) Ltd. VS Province of Sindh
160.	Const. P.D1895/2011	Premier Industries Chemical VS Province of Sindh
161.	Const. P.D 1775/2011	M/s A.J. Textile Mills Ltd. VS Province of Sindh
162.	Const. P.D 1994/2011	M/s Saad Internationals VS Province of Sindh
163.	Const. P.D 2068/2011	Tanveer Spinning & Weaving Mill Vs. Province of Sindh
164.	Const. P.D 1877/2011	Nafeesa Textile Ltd. VS Province of Sindh
165.	Const. P.D 1845/2011	M/s Hameeda Industries Pvt. Ltd. VS Province of Sindh
166.	Const. P.D 1878/2011	M/s. Asia Ghee Mills Pvt Ltd. VS Province of Sindh
167.	Const. P.D 1993/2011	M/s Allah Ditta & Sons Ltd VS Province of Sindh
168.	Const. P.D 1810/2011	Zahra Textile Pvt Ltd. VS Province of Sindh
169.	Const. P.D 1816/2011	M/s Fazal Cloth Mills Ltd. VS Province of Sindh
170.	Const. P.D 1886/2011	M/s Acro Textile Mills Pvt Ltd. VS Province of Sindh
171.	Const. P.D 1679/2011	N.P Spinnings Mills Ltd VS Province of Sindh
172.	Const. P.D 1683/2011	Deewan Farooq Motors Ltd VS Province of Sindh
173.	Const. P.D 1760/2011	A&B Food Industries Pvt Ltd VS Province of Sindh
174.	Const. P.D 1988/2011	M/s Al Hashimi Brothers & Oil Industries Co. Ltd. VS Province of Sindh

175.	Const. P.D1709 /2011	M/s Universal Leather Pvt. Ltd. VS Province of Sindh
176.	Const. P.D 1599/2011	M/s Uniliver Pakistan Ltd. VS Province of Sindh
177.	Const. P.D 2062/2011	M/s Arshad Textile Mills Ltd. Co. VS Province of Sindh
178.	Const. P.D 1684/2011	Artistic Fabric Mills Ltd. VS Province of Sindh
179.	Const. P.D 1748/2011	ATS Systematic Pvt. Ltd. VS Province of Sindh & Others
180.	Const. P.D 1708/2011	Mima Knit Pvt. Ltd. VS Province of Sindh
181.	Const. P.D 1765/2011	Nagina Cotton Mills VS Province of Sindh
182.	Const. P.D 1836/2011	Transtech VS Province of Sindh
183.	Const. P.D 3609/2011	Ever Fresh Farms Pvt. Ltd. VS Province of Sindh
184.	Const. P.D 1769/2011	Shadman Cotton Mills. VS Province of Sindh
185.	Const. P.D 1935/2011	M/s Kohinoor Mills Ltd. VS Province of Sindh
186.	Const. P.D 1768/2011	M/s Idrees Textile Mills Ltd VS Province of Sindh
187.	Const. P.D 1917/2011	M/s Mohsin Enterprises VS Province of Sindh
188.	Const. P.D 1641/2011	Sapphire Fishing Mills Ltd VS Province of Sindh
189.	Const. P.D 1874/2011	Bilal Fibre VS Province of Sindh
190.	Const. P.D 1871/2011	Fashion Knit Industries VS Province of Sindh
191.	Const. P.D 1834/2011	Yaqoot Oil Processing & Extracting VS Province of Sindh
192.	Const. P.D 1897/2011	Zafar Fabric Ltd. VS Province of Sindh
193.	Const. P.D 1774/2011	N P Cotton Mills VS Province of Sindh
194.	Const. P.D 1749/2011	B.P.D Industries Pvt. Ltd. VS Province of Sindh
195.	Const. P.D 1801/2011	Gul Ahmed Textile Mills Ltd. VS Province of Sindh
196.	Const. P.D 1844/2011	Zakariya Enterprises VS Province of Sindh
197.	Const. P.D 1846/2011	Ashraf Industries Pvt. Ltd. VS Province of Sindh
198.	Const. P.D 1913/2011	Ayesha Spinning Mills Ltd. VS Province of Sindh
199.	Const. P.D 2090/2011	Yaqoot Traders VS Province of Sindh & Others
200.	Const. P.D 2077/2011	M/s Saif Textile Mills Ltd. VS Province of Sindh
201.	Const. P.D 1870/2011	M/s Kamarl Ltd. VS Province of Sindh
202.	Const. P.D 1989/2011	M/s WR Edible Oil Refinery Pvt. Ltd. VS Province of Sindh
203.	Const. P.D 1755/2011	SA Trading Corporation Co. Ltd. VS Province of Sindh
204.	Const. P.D 1680/2011	M/s Saritow Spinning Mills Ltd. VS Province of Sindh
205.	Const. P.D 1916/2011	SGM Sugar Mills Ltd. VS Province of Sindh
206.	Const. P.D 1847/2011	M/s Agro Processors & Atmospheric gases Ltd. VS Province of Sindh
207.	Const. P.D 1807/2011	M/s Khas Textile Mills Pvt. Ltd. VS Province of Sindh
208.	Const. P.D 1750/2011	M/s Indus Dyeing and Manufacturing Co. Ltd. VS Province of Sindh
209.	Const. P.D 1763/2011	Artistic Milliners Pvt. Ltd. VS Province of Sindh
210.	Const. P.D 1644/2011	Sapphire Power Generation Ltc VS Province of Sindh
211.	Const. P.D 1782/2011	Diamond International VS Province of Sindh
212.	Const. P.D 1643/2011	M/s Paramount Spinning Mills Limited VS Province of Sindh
213.	Const. P.D1772 /2011	M/s Ahmed Oriental Textile Mills Ltd. VS Province of Sindh
214.	Const. P.D 1909/2011	M/s Al-Textile (Pvt) Ltd VS Province of Sindh
215.	Const. P.D 1987/2011	M/s Farooq Oil Industries (Pv) Ltd. VS Province of Sindh
216.	Const. P.D 1840/2011	M/s Sadiq vegetable Ghee Mill (Pvt) Ltd VS Province of Sindh
217.	Const. P.D 1914/2011	M/s BNP Industries Ltd VS Province of Sindh
218.	Const. P.D 1876/2011	M/s Shafi Spinning Mills Ltd VS Province of Sindh

219.	Const. P.D 1990/2011	M/s Gul Shahzada Enterprises (pvt) Ltd. VS Province of Sindh
220.	Const. P.D 1779/2011	Hussain Mills VS Province of Sindh
221.	Const. P.D 1912/2011	Al Moiz Industries VS Province of Sindh
222.	Const. P.D 1992/2011	Bhatti Traders VS Province of Sindh
223.	Const. P.D 1777/2011	M/s North Star Textile VS Province of Sindh
224.	Const. P.D 1893/2011	Asian Food Industries VS Province of Sindh
225.	Const. P.D 1722/2011	Lucky Textile Mills VS Province of Sindh
226.	Const. P.D 1843/2011	M/S Khayaban Ghee Mills (PVT) LTD VS Province of Sindh
227.	Const. P.D 2001/2011	M/S Hamza Vegetable oil refinery & Ghee Mills Pvt VS Province of Sindh
228.	Const. P.D 1832/2011	M/S Azhar Corporation (PVT) Limited VS Province of Sindh
229.	Const. P.D 1712/2011	M/S Sargodha Jute Mills Ltd VS Province of Sindh
230.	Const. P.D 1758/2011	M/S Soorty Enterprises (Pvt Ltd) VS Province of Sindh
231.	Const. P.D 1688/2011	Artistic Garment Industries (Pvt Ltd) VS Province of Sindh
232.	Const. P.D 1600/2011	M/S Shell Pakistan Ltd VS Province of Sindh
233.	Const. P.D 1719/2011	Fazal Textile Mills (Ltd) VS Province of Sindh
234.	Const. P.D 1720/2011	Gadoon Textile Mills (Ltd) VS Province of Sindh
235.	Const. P.D 1682/2011	M/s Hantex VS Province of Sindh
236.	Const. P.D 1663/2011	M/s Associated Industries Ltd VS Province of Sindh
237.	Const. P.D 1659/2011	M/s Riaz Textile Mills Ltd VS Province of Sindh
238.	Const. P.D 2503/2011	Mehboob Steel Pipes VS Province of Sindh
239.	Const. P.D 2044/2011	M/s Sapphire Dairies Pvt Ltd VS Province of Sindh
240.	Const. P.D 2059/2011	M/s Azgard Nine Limited VS Province of Sindh
241.	Const. P.D 1841/2011	M/s Tahir Amar Industries (Pvt) Ltd VS Province of Sindh
242.	Const. P.D 1890/2011	Mayfair Limited VS Province of Sindh
243.	Const. P.D 2118/2011	US Denim Mills Pvt Ltd VS Province of Sindh
244.	Const. P.D 1839/2011	Abdul Majid VS Province of Sindh
245.	Const. P.D 1872/2011	Kassim Textile VS Province of Sindh
246.	Const. P.D 1848/2011	Hina Khurram VS Province of Sindh
247.	Const. P.D 1705/2011	Pakistan Vynal Industries VS Province of Sindh
248.	Const. P.D 1804/2011	M/s Blessed Textiles Ltd VS Province of Sindh
249.	Const. P.D 1980/2011	M/s Reliance Weaving Mills Ltd VS Province of Sindh
250.	Const. P.D 1813/2011	M/s Nisar Spinning Mills Limited VS Province of Sindh
251.	Const. P.D 1645/2011	M/s Reliance Cotton Spinning Mills Ltd VS Province of Sindh
252.	Const. P.D 1838/2011	M/s Muridke Refine Oil Mills VS Province of Sindh
253.	Const. P.D 1835/2011	M/s Iffco Pakistan (Pvt) Ltd VS Province of Sindh
254.	Const. P.D 1898/2011	M/s Colony Mills Limited VS Province of Sindh
255.	<u>Const. P.D 1466/2012</u>	General Tyre & Rubber Co. Pakistan VS The Province of Sindh & ors
256.	<u>Const. P.D 2570/2012</u>	M/s. Nishat Dairy(Pvt) Ltd VS the Province of Sindh & another
257.	<u>Const. P.D 2697/2012</u>	SPEC (Pvt) Ltd VS The Prov. of Sindh & ORs
258.	<u>Const. P.D 2879/2012</u>	Mian Nazir Sons Ind VS Province of Sindh & Others
259.	<u>Const. P.D 3001/2012</u>	M/s. Suraj Cotton Mills Ltd VS Province of Sindh & Others
260.	<u>Const. P.D 3002/2012</u>	M/s. Shams Textile Mills Ltd VS Province of Sindh & Others
261.	<u>Const. P.D 3003/2012</u>	M/s. Equity Textile Mills Ltd VS Province of Sindh & Others
262.	<u>Const. P.D 3653/2012</u>	M/S Karachi Tube Mills Pvt. Ltd. VS Province of Sindh & Others

263.	<u>Const. P.D 1351/2013</u>	M/s. Kamal Textile Mills(Pvt) Ltd VS Province of Sindh & Others
264.	<u>Const. P.D 138/2013</u>	M/s. Nimir Chemicals VS Province of Sindh & Others
265.	<u>Const. P.D 1786/2013</u>	Digital World (pvt) Ltd VS Province of Sindh and ors
266.	<u>Const. P.D 1787/2013</u>	DWP Technologies (Pvt) Ltd VS Province of Sindh and Ors
267.	<u>Const. P.D 2173/2013</u>	M/s Matco Rice Proceedings Pvt Ltd VS Province of Sindh and Ors
268.	<u>Const. P.D 2623/2013</u>	M/S Aisha Steel Mills Limited VS Prov. of Sindh & Ors.
269.	<u>Const. P.D 3410/2013</u>	M/s Nishat Lines (Pvt) Ltd VS Province of Sindh and Ors
270.	<u>Const. P.D 3424/2013</u>	M/s Fazal Weaving Mills VS Province of Sindh and ORs
271.	<u>Const. P.D 3712/2013</u>	M/s Shafi Taxcel Ltd VS Province of Sindh and Ors
272.	<u>Const. P.D 3819/2013</u>	M/s K.K Oil & Ghee Mills Pvt Ltd VS Province of Sindh and Ors
273.	<u>Const. P.D 4028/2013</u>	M/s Masco Spinning Mills Pvt Ltd VS Province of Sindh and Ors
274.	<u>Const. P.D 4577/2013</u>	Inter Loop Diaries Ltd VS Province of Sindh and Ors
275.	<u>Const. P.D 5197/2013</u>	M/s Ahmed Oil Industries Pvt Ltd VS Province of Sindh and Ors
276.	<u>Const. P.D 5198/2013</u>	M/s Plastiflex Films Pvt Ltd VS Province of Sindh and Ors
277.	<u>Const. P.D 1010/2014</u>	M/s Mujahid Enterprises VS Province of Sindh and Ors
278.	<u>Const. P.D 1011/2014</u>	M/s Imran Yaqoob Ghee Inds VS Province of Sindh and ORs
279.	<u>Const. P.D 1066/2014</u>	M/s Commodity World VS Province Of Sindh and ors
280.	<u>Const. P.D 1521/2014</u>	Atlas Honda Ltd VS SINDH and Ors
281.	<u>Const. P.D 1522/2014</u>	Honda Atlas Cars (Pakistan) Ltd VS Sindh and Ors
282.	<u>Const. P.D 1706/2014</u>	Atlas Battery VS Sindh and Ors
283.	<u>Const. P.D 1707/2014</u>	Atlas Hitec VS Sindh and Ors
284.	<u>Const. P.D 1708/2014</u>	Atlas Engineering VS Sindh and Ors
285.	<u>Const. P.D 1709/2014</u>	Atlas Autos VS Sindh and Ors
286.	<u>Const. P.D 1710/2014</u>	Shirazi Trading and Co. VS Sindh and Ors
287.	<u>Const. P.D 2346/2014</u>	Pak Suzuki Motor Co. Ltd VS Province of Sindh and Ors
288.	<u>Const. P.D 2552/2014</u>	M/s Atif Enterprises (Pvt) Ltd VS Province of Sindh and Ors
289.	<u>Const. P.D 2553/2014</u>	Mirpur Oil and Ghee VS Province of Sindh and Ors
290.	<u>Const. P.D 2808/2014</u>	M/s Kamal Industries VS Province of Sindh and Ors
291.	<u>Const. P.D 3544/2014</u>	Honda Atlas Power Product VS Sindh and ors
292.	<u>Const. P.D 3615/2014</u>	M/S Ideal Spinning Mills Ltd VS Prov of Sindh and others
293.	<u>Const. P.D 3714/2014</u>	Engro Elengy Terminal Pvt Ltd VS The Province of Sindh & Others
294.	<u>Const. P.D 3923/2014</u>	Sheikh Pipe Mills VS Province of Sindh and Ors
295.	<u>Const. P.D 3924/2014</u>	M/s Sheikh Engineering Co. VS Province of Sindh and Ors
296.	<u>Const. P.D 4341/2014</u>	M/s H.M Extraction Ghee & Oil Industries VS Province of Sindh and Ors
297.	<u>Const. P.D 4342/2014</u>	M/s Lal Ghee & Oil Mills VS Province of Sindh and Ors
298.	<u>Const. P.D 4352/2014</u>	TRI-PACK FILMS LTD VS FED. OF PAKISTAN AND OTHERS
299.	<u>Const. P.D 4567/2014</u>	M/s Nishat Hotels & Properties Ltd VS Province of Sindh and ORs
300.	<u>Const. P.D 4645/2014</u>	M/s Crescent Hadeed (Pvt) Ltd VS Province of Sindh and Ors
301.	<u>Const. P.D 4733/2014</u>	M/s Pakgen Power Ltd VS Province of Sindh and Ors
302.	<u>Const. P.D 4734/2014</u>	M/s Cherat Cement Co. VS Province of Sindh and Orss
303.	<u>Const. P.D 4735/2014</u>	M/s Lalpir Power Ltd VS Province of Sindh and Ors
304.	<u>Const. P.D 5010/2014</u>	M/s HNR Co. VS Province of Sindh and ORss=
305.	<u>Const. P.D 5067/2014</u>	M/s Salman Oil Ghee Mills (Pvt) Ltd VS Province of Sindh and Ors
306.	<u>Const. P.D 5068/2014</u>	M/s Pak Pertochemical Industries (Pvt) Ltd VS Province of Sindh and Ors

307.	<u>Const. P.D 5402/2014</u>	M/s Bhanero Energy Ltd VS Province of Sindh and ORs
308.	<u>Const. P.D 5691/2014</u>	M/s Fahad Hamad Oil VS Province Of Sindh and ors
309.	<u>Const. P.D 6529/2014</u>	M/s Cresent Fibres Limited VS Province Of Sindh and ors
310.	<u>Const. P.D 778/2014</u>	M/S Al Karam Towel Industries Pvt. Ltd. VS Prov. of Sindh and others
311.	<u>Const. P.D 864/2014</u>	M/s Cherat Packaging Limited VS Province Of Sindh and ors
312.	<u>Const. P.D 98/2014</u>	M/s Olympia Textile Mills limited VS Province Of Sindh and ors
313.	<u>Const. P.D 1522/2015</u>	Fatima Energy Ltd VS Province Of Sindh and ors
314.	<u>Const. P.D 1653/2015</u>	Siddiq Leather Work VS Province of Sindh and Ors
315.	<u>Const. P.D 1923/2015</u>	M/s NC Electric Co. Ltd VS Province of Sindh and Ors
316.	<u>Const. P.D 2029/2015</u>	M/S Syed Mohammad & Sons VS P.DO Sindh & others
317.	<u>Const. P.D 2049/2015</u>	M/s Sapphire Wind Power VS Province of Sindh and Ors
318.	<u>Const. P.D 2215/2015</u>	M/s Meezan Edible Oil VS Province of Sindh and Ors
319.	<u>Const. P.D 2216/2015</u>	M/s Mezan Te (Pvt) Ltd VS Province of Sindh and Ors
320.	<u>Const. P.D 2349/2015</u>	M/s FKW Global Communication Pvt Ltd VS Province of Sindh and Ors
321.	<u>Const. P.D 250/2015</u>	Ms Load Limited VS Province Of Sindh and ors
322.	<u>Const. P.D 3081/2015</u>	M/s Huffaz Seamless Pipe VS Govt. of Sindh and Ors
323.	<u>Const. P.D 3208/2015</u>	M/s IIL Stainless Steel (Pvt) Ltd VS Province of Sindh and Ors
324.	<u>Const. P.D 561/2015</u>	Mushtaqim Dyeing & Printing Industries Pvt ltd VS P.DO Sindh and others
325.	<u>Const. P.D 601/2015</u>	Hudson Pharma (Pvt) Ltd VS Province Of Sindh and ors
326.	<u>Const. P.D 6619/2015</u>	Pak Arab Fertilizers and Ors VS Province of Sindh and Ors
327.	<u>Const. P.D 7779/2015</u>	Thal Boshoku Pakistan VS Province of Sindh and Ors
328.	<u>Const. P.D 874/2015</u>	M/s Biotech Energy VS Province of Sindh and Ors
329.	<u>Const. P.D 2015/2016</u>	M/s Crescent Powertec Ltd VS Province of Sindh and Ors
330.	<u>Const. P.D 2205/2016</u>	M/s Al-Momin Packaging VS Province of Sindh and Ors
331.	<u>Const. P.D 3655/2016</u>	M/s Nishat Commodities Pvt Ltd VS Province of Sindh and Ors
332.	<u>Const. P.D 4032/2016</u>	M/s Hi-Tech Lubricants (Pvt) Ltd VS Province of Sindh & Ors
333.	<u>Const. P.D 4033/2016</u>	M/s Hi-Tech Blending (Pvt) Ltd VS Province of Sindh & Ors
334.	<u>Const. P.D 4335/2016</u>	M/s Maple Leaf Power Ltd VS Province of Sindh and Ors
335.	<u>Const. P.D 5410/2016</u>	Indus Motor Co. Ltd VS Province of Sindh and Ors
336.	<u>Const. P.D 5411/2016</u>	Sapphire Textile Mills Ltd VS Province of Sindh and Ors
337.	<u>Const. P.D 5412/2016</u>	Sapphire Fibres Ltd VS Province of Sindh and Ors
338.	<u>Const. P.D 5413/2016</u>	Amer Cotton Mills VS Province of Sindh and Ors
339.	<u>Const. P.D 5414/2016</u>	Umer Farms (Pvt) Ltd VS Province of Sindh and Ors
340.	<u>Const. P.D 5415/2016</u>	Firhaj Footwear (Pvt) Ltd VS Province of Sindh and Ors
341.	<u>Const. P.D 5416/2016</u>	Faisal Spinning Mills VS Province of Sindh and Ors
342.	<u>Const. P.D 5417/2016</u>	Bhanero Textile Mills Ltd VS Province of Sindh and Ors
343.	<u>Const. P.D 5418/2016</u>	Bhanero Energy Ltd VS Province of Sindh and Ors
344.	<u>Const. P.D 5419/2016</u>	Blessed Textile Ltd VS Province of Sindh and Ors
345.	<u>Const. P.D 5424/2016</u>	Thal Ltd VS Province of Sindh and Ors
346.	<u>Const. P.D 5463/2016</u>	Artistic Fabric & Garment Industries (Pvt) Ltd VS Province of Sindh & Ors
347.	<u>Const. P.D 5607/2016</u>	M/s Kohinoor Textile Mills Ltd VS Province of Sindh and Ors
348.	<u>Const. P.D 5661/2016</u>	M/s Rawat Oil & Ghee Mills VS Province of Sindh and Ors
349.	<u>Const. P.D 6085/2016</u>	M/s Sky Linker Business Chain VS Province of Sindh and Ors
350.	<u>Const. P.D 6086/2016</u>	M/s Royal Zone (Pvt) Ltd VS Province of Sindh and Ors

351.	<u>Const. P.D 6152/2016</u>	M/s Utman Ghee Ind. VS Province of Sindh and Ors
352.	<u>Const. P.D 6153/2016</u>	M/s Pan Asia Food Products VS Province of Sindh and Ors
353.	<u>Const. P.D 6154/2016</u>	M/s Al-Makkah Oil Refinery VS Province of Sindh and Ors
354.	<u>Const. P.D 6234/2016</u>	M/s Nishat Agriculture Farming VS Province of Sindh and Ors
355.	<u>Const. P.D 6325/2016</u>	Lucky Entertainment (Pvt) Ltd VS Province of Sindh and ORs
356.	<u>Const. P.D 6326/2016</u>	ICI Pakistan Ltd VS Province of Sindh and Ors
357.	<u>Const. P.D 6327/2016</u>	Lucky Textile Mills Ltd VS Province of Sindh and Ors
358.	<u>Const. P.D 6328/2016</u>	Gadoon Textile Mills VS Province of Sindh and Ors
359.	<u>Const. P.D 6487/2016</u>	Lucky One (Pvt) Ltd VS Govt. of Sindh and Ors
360.	<u>Const. P.D 6488/2016</u>	Younus Textile Mills Ltd VS Govt. of Sindh and ORs
361.	<u>Const. P.D 6489/2016</u>	Lucky Energy (Pvt) Ltd VS Govt. of Sindh and Ors
362.	<u>Const. P.D 6490/2016</u>	Lucky Landmark (Pvt) Ltd VS Govt. of Sindh and Ors
363.	<u>Const. P.D 1755/2017</u>	M/s Glaxy Rice Mills Pvt Ltd VS Province of Sindh and Ors
364.	<u>Const. P.D 2746/2017</u>	Al-Muqheet Textiles (Pvt) Ltd VS Province of Sindh and ORs
365.	<u>Const. P.D 275/2017</u>	M/s Lucky Knit (Pvt) Ltd VS Province of Sindh and Ors
366.	<u>Const. P.D 347/2017</u>	Tapal Tea (Pvt) Ltd VS Sindh and Others
367.	<u>Const. P.D 6347/2017</u>	EFert Agritrade (Pvt) Ltd VS Province of Sindh and Ors
368.	<u>Const. P.D 643/2017</u>	Shahbaz Garments (Pvt) Ltd and Ors VS Province of Sindh and Ors
369.	<u>Const. P.D 6500/2017</u>	M/s Amreli Steels Ltd VS Province of Sindh & Ors
370.	<u>Const. P.D 6928/2017</u>	M/s Indus Motor Co. Ltd VS Province of Sindh and Others
371.	<u>Const. P.D 7164/2017</u>	Thal Ltd and Ors VS Sindh and Ors
372.	<u>Const. P.D 730/2017</u>	Pakistan Aluminium Beverages Can Ltd VS Province of Sindh and Ors
373.	<u>Const. P.D 765/2017</u>	M/s C.A Textile Mills (Pvt) Ltd VS Province of Sindh and Ors
374.	<u>Const. P.D 8140/2017</u>	National Foods Ltd VS Sindh and Ors
375.	<u>Const. P.D 8358/2017</u>	Abdul Hafeez Shafi Leather VS Province of Sindh and Ors
376.	<u>Const. P.D 8400/2017</u>	Sargodha Jute Mills Ltd VS Province of Sindh and Ors
377.	<u>Const. P.D 8401/2017</u>	Shahzad Textile Mills Ltd VS Province of Sindh & Ors
378.	<u>Const. P.D 8408/2017</u>	Premier Textile Mills Ltd and Ors VS Sindh and Ors
379.	<u>Const. P.D 8448/2017</u>	Packages Ltd VS Sindh and Ors
380.	<u>Const. P.D 8449/2017</u>	DIC Pakistan VS Sindh and Ors
381.	<u>Const. P.D 8450/2017</u>	Bulleh Shah Packaging (Pvt) Ltd VS Sindh and Ors
382.	<u>Const. P.D 8491/2017</u>	M/s Liberty Power Tech Ltd VS Sindh and Ors
383.	<u>Const. P.D 8492/2017</u>	M/s Libery Mills Ltd VS Sindh and Ors
384.	<u>Const. P.D 8494/2017</u>	M.A.K Automotive (Pvt) Ltd VS Province of Sindh and Ors
385.	<u>Const. P.D 8511/2017</u>	Engro Polymer & Chemicals Ltd VS Sindh and Ors
386.	<u>Const. P.D 8676/2017</u>	Tri-Pack Films Ltd VS Province of Sindh and Ors
387.	<u>Const. P.D 8750/2017</u>	M/s Trade Ocean International VS Province of Sindh and Ors
388.	<u>Const. P.D 8752/2017</u>	Advance Telecom VS Province of Sindh and Ors
389.	<u>Const. P.D 8817/2017</u>	Margalla Textile Mills Ltd VS Province of Sindh and Ors
390.	<u>Const. P.D 8818/2017</u>	Olympia Blended Fibre Mills Ltd VS Province of Sindh and Ors
391.	<u>Const. P.D 8819/2017</u>	Jamhoor Textile Mills Ltd VS Province of Sindh and Ors
392.	<u>Const. P.D 8820/2017</u>	Rawal Textile Mills Ltd VS Province of Sindh and Ors
393.	<u>Const. P.D 8821/2017</u>	The Lahore Textile & General Mills Ltd VS Province of Sindh and Ors
394.	<u>Const. P.D 8822/2017</u>	Tribal Textile Mills Ltd VS Province of Sindh and Ors

395.	Const. P.D 7613/201 7	Atlas Honda Ltd and Ors VS Sindh and Ors
396.	Const. P.D 7614/201 7	Atlas Battery Ltd. and others VS Sindh & others
397.	Const. P.D 7615/201 7	Atlas Engineering Ltd and Ors VS Sindh and Ors
398.	Const. P.D 7616/201 7	Atlas Metal (Pvt) Ltd and Ors VS Sindh and Ors
399.	<u>Const. P.D 1075/2018</u>	Shamim uddin Ahmed & Ors VS POS & Ors
400.	<u>Const. P.D 1265/2018</u>	Engro Foods Ltd VS Sindh and Ors
401.	<u>Const. P.D 2984/2018</u>	M/s Krystopac Energy (Pvt) Ltd VS Province of Sindh and Others
402.	<u>Const. P.D 3265/2018</u>	Pakistan Cables Ltd VS Province of Sindh and Others
403.	<u>Const. P.D 3267/2018</u>	M/s Trade Ocean International VS Province of Sindh and Others
404.	<u>Const. P.D 345/2018</u>	Munib Abdul Rauf VS Province of Sindh and Ors
405.	<u>Const. P.D 3942/2018</u>	M/s Krystalite Products (Pvt) Ltd VS Province of Sindh & Others
406.	<u>Const. P.D 442/2018</u>	M/s Agar Textile (Pvt) Ltd VS Sindh and Ors
407.	<u>Const. P.D 5003/2018</u>	M/s Kausar Ghee Mills VS Province of Sindh & Others
408.	<u>Const. P.D 5235/2018</u>	KIA Lucky Motors Pakistan Ltd VS Province of Sindh & Others
409.	<u>Const. P.D 5605/2018</u>	M/s A.K Oil & Ghee VS Province of Sindh & Others
410.	<u>Const. P.D 7698/2018</u>	IL Apparel (Pvt) Ltd VS Province of Sindh & Others
411.	<u>Const. P.D 7728/2018</u>	Saleem Memorial Trust Hospital VS Province of Sindh & Others
412.	<u>Const. P.D 8321/2018</u>	Memon Motors (Pvt) Ltd VS Province of Sindh & Others
413.	<u>Const. P.D 8345/2018</u>	M/s Kashmir Oil & Ghee Mills (Pvt) Ltd VS Province of Sindh & Others
414.	<u>Const. P.D 8764/2018</u>	M/s Marclum Ind (Pvt) Ltd VS Province of Sindh & Others
415.	<u>Const. P.D 877/2018</u>	REckitt Benckiser Pakistan Ltd VS Sindh & Ors
416.	<u>Const. P.D 1067/2019</u>	M/s International Textile Ltd VS Province of Sindh & Others
417.	<u>Const. P.D 1462/2019</u>	M/s Salim Winding Works & Ors VS Province of Sindh & Others
418.	<u>Const. P.D 1629/2019</u>	M/s Lucky Electric Power Company Ltd VS Province of Sindh & Others
419.	<u>Const. P.D 2028/2019</u>	M/s ASCO International Pvt Ltd VS Province of Sindh & Others
420.	<u>Const. P.D 2607/2019</u>	PSO Co. Ltd VS Sindh and Others
421.	<u>Const. P.D 2666/2019</u>	M/s AAA Plasc VS Province of Sindh & Others
422.	<u>Const. P.D 37/2019</u>	AlKaram Textile Mills (Pvt) Ltd VS Province of Sindh & Others
423.	<u>Const. P.D 4258/2019</u>	M/s G- Pac Engergy (Pvt) Ltd VS Province of Sindh & Others
424.	<u>Const. P.D 4334/2019</u>	M/s Hyundai Nishat Motors (Pvt) Ltd VS Province of Sindh & Others
425.	<u>Const. P.D 4335/2019</u>	M/s Digital Apparel (Pvt) Ltd VS Province of Sindh & Others
426.	<u>Const. P.D 4374/2019</u>	Power Cement Ltd VS Province of Sindh & Others
427.	<u>Const. P.D 5149/2019</u>	M/s Platinum Agro Oil & Ghee Ind Pvt Ltd VS Province of Sindh & Others
428.	<u>Const. P.D 5442/2019</u>	Ms Bara Ghee Mills (Pvt) Ltd VS Province of Sindh & Others
429.	<u>Const. P.D 5540/2019</u>	M/s Universal Tube Mills (Pvt) Ltd VS Province of Sindh & Others
430.	<u>Const. P.D 5611/2019</u>	US & Dynamo Mills (Pvt) Ltd VS Province of Sindh & Others
431.	<u>Const. P.D 5886/2019</u>	M/s H.Sheikh Noor ud Din & Sons (Pvt) Ltd VS Province of Sindh & Others
432.	<u>Const. P.D 6129/2019</u>	M/s Kohinoor Textile Mills Ltd VS Province of Sindh & Others
433.	<u>Const. P.D 700/2019</u>	M/s Naveena Steel Mills (Pvt) Ltd VS Province of Sindh & Others
434.	<u>Const. P.D 7293/2019</u>	Engro Peroxide Pvt Ltd VS Sindh and Others
435.	<u>Const. P.D 7485/2019</u>	M/s Lucky Commodities Pvt Ltd VS Province of Sindh & Others
436.	<u>Const. P.D 7532/2019</u>	M/s Garibsons Pvt Ltd VS Province of Sindh & Others
437.	<u>Const. P.D 7569/2019</u>	M/s Hascol Petroelum Ltd VS Province of Sindh & Others
438.	<u>Const. P.D 7814/2019</u>	Olympia Pvt Ltd VS Province of Sindh & Others

439.	<u>Const. P.D 8023/2019</u>	M/s J.B Ind VS Province of Sindh & Others
440.	<u>Const. P.D 8519/2019</u>	Qasim International Container Terminal Pak Ltd VS Sindh and Others
441.	<u>Const. P.D 1261/2020</u>	Zahidjee Textile Mills Ltd VS Province of Sindh & Ors
442.	<u>Const. P.D 1286/2020</u>	OTO Pakistan Pvt Ltd VS Province of Sindh & Ors
443.	<u>Const. P.D 1311/2020</u>	PSO Co. Ltd VS Sindh & Ors
444.	<u>Const. P.D 137/2020</u>	M/s SS Fashion Resources VS Fed. of Pakistan and Others
445.	<u>Const. P.D 181/2020</u>	M/s Megna Processing Industries Pvt Ltd VS Fed. of Pakistan and Others
446.	<u>Const. P.D 182/2020</u>	M/s Megna Textile Industries Pvt Ltd VS Fed. of Pakistan and Others
447.	<u>Const. P.D 2601/2020</u>	Reckitt Benckiser Pakistan VS Sindh and Others
448.	<u>Const. P.D 2793/2020</u>	M/s Artistic Fabric Mills VS Province of Sindh & Others
449.	<u>Const. P.D 3038/2020</u>	M/s AR Sovent & Ghee Ind. Ltd VS Province of Sind & Ors
450.	<u>Const. P.D 3039/2020</u>	M/s Gul Shahzad Steel Mills VS Province of Sindh & ors
451.	<u>Const. P.D 3040/2020</u>	M/s Maqboolo Plastic Ind. VS Province of Sindh & Ors
452.	<u>Const. P.D 3041/2020</u>	SB Steel Metal & Pipe Mills VS Province of Sindh & Ors
453.	<u>Const. P.D 3261/2020</u>	Aisha Steel Mills Ltd VS Province of Sindh and Others
454.	<u>Const. P.D 3303/2020</u>	M/s Fatima Oil & Ghee Mills Pvt Ltd VS Province of Sindh & Ors
455.	<u>Const. P.D 3304/2020</u>	M/s Gul Edible Oil Refinery Pvt Ltd VS Province of Sindh & Ors
456.	<u>Const. P.D 3419/2020</u>	M/s Management Pakistan Pvt Ltd VS Province of Sindh and Others
457.	<u>Const. P.D 3593/2020</u>	Archroma Pakistan Ltd VS Sindh and Others
458.	<u>Const. P.D 3652/2020</u>	Atlas D.I.D (Pvt) Ltd VS Sindh and Others
459.	<u>Const. P.D 3653/2020</u>	Atlas GCI Pvt Ltd VS Sindh and Others
460.	<u>Const. P.D 3993/2020</u>	M/s Ocean Plastic & Metal Solution Pvt Ltd VS Province of Sindh and Others
461.	<u>Const. P.D 4089/2020</u>	M/s Win Pipe Industries (Pvt) Ltd VS Fed. of Pakistan and Others
462.	<u>Const. P.D 4090/2020</u>	M/s Unity Foods Ltd VS Fed. of Pakistan and Others
463.	<u>Const. P.D 4404/2020</u>	M/s S T Cold Rolling VS Province of Sindh and Others
464.	<u>Const. P.D 543/2020</u>	PSO Co. Ltd VS Sindh and Others
465.	<u>Const. P.D 5796/2020</u>	M/s Dalda Food Ltd VS Province of Sindh and Others
466.	<u>Const. P.D 5797/2020</u>	M/s Oil Processor of Refinery Pvt Ltd VS Province of Sindh & Ors
467.	<u>Const. P.D 5990/2020</u>	Exceed Petroleum Pvt Ltd VS Province of Sindh and Others
468.	<u>Const. P.D 6071/2020</u>	M/s Master Motors Corp VS Province of Sindh and Others
469.	<u>Const. P.D 6215/2020</u>	M/s Hi Tech Lubricants Ltd VS Province of Sindh & Ors
470.	<u>Const. P.D 6222/2020</u>	M/s Roomi Fabrics Ltd VS Province of Sindh & Ors
471.	<u>Const. P.D 6223/2020</u>	M/s Mahmood Textile Mills Ltd VS Province of Sindh & ors
472.	<u>Const. P.D 6224/2020</u>	M/s Masood Fabrics Ltd VS Province of Sindh & Ors
473.	<u>Const. P.D 6225/2020</u>	Maqsod Spinning Mills Ltd VS Province of Sindh ors
474.	<u>Const. P.D 6245/2020</u>	M/s Pakistan Synthetics Ltd VS Province of Sindh & Ors
475.	<u>Const. P.D 6246/2020</u>	M/s Amna Industries VS Province of Sindh & Ors
476.	<u>Const. P.D 800/2020</u>	Be Energy Ltd VS Sindh and Others
477.	<u>Const. P.D 801/2020</u>	Byco Petroleum Pakistan Ltd VS Sindh and Others
478.	<u>Const. P.D 97/2020</u>	Printkraft (Pvt) Ltd VS Province of Sindh & Others
479.	<u>Const. P.D 98/2020</u>	IRC Dairy Product (Pvt) Ltd VS Province of Sindh & Others
480.	<u>Const. P.D 1098/2021</u>	Bismillah Textie Ltd VS Province of Sindh and Others
481.	<u>Const. P.D 1171/2021</u>	Tufail Chemicals Ind and Ors VS Province of Sindh and Others
482.	<u>Const. P.D 1205/2021</u>	Oncogen Pharma (Pvt) Ltd VS Province of Sindh and Others

483.	<u>Const. P.D 1421/2021</u>	Shafi Agro Pvt Ltd VS Province of Sindh & Ors
484.	<u>Const. P.D 1459/2021</u>	Inovi Telecom (Pvt) Ltd VS Province of Sindh & Ors
485.	<u>Const. P.D 442/2021</u>	Service Long March Tyres Pvt Ltd VS Province of Sindh and Others
486.	<u>Const. P.D 660/2021</u>	M/s Fimcotex Ind Pvt Ltd VS Province of Sindh and Others
487.	<u>Const. P.D 876/2021</u>	Pakistan State Oil Co. Ltd VS Province of Sindh and Others
488.	<u>Const. P.D 2450/2021</u>	M/s. Hi Tech Oil & Ghee Mills Pvt. Ltd. VS Province of Sindh and Others