

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D-5842 of 2022

C.P. No. D-5667, 5669, 5670, 5671, 5843 to 5858, 5864 to 5878, 5908, 5909, 5915 to 5918, 6099, 6100, 6129, 6171, 6172, 6211, 6213, 6223, 6232, 6233, 6234, 6260, 6360, 6419 to 6423, 6445, 6451, 6455, 6470 to 6474, 6482, 6483, 6486, 6490 to 6494, 6521, 6522, 6574, 6576, 6577, 6578, 6579, 6580, 6582, 6591, 6592, 6602, 6619, 6635, 6636, 6637, 6638, 6670, 6709, 6733, 6734, 6738, 6754, 6756, 6791, 6822, 6940, 6941, 6942, 6970, 6973, 7000, 7005, 7024, 7036, 7043, 7104, 7113, 7123, 7140, 7144, 7152, 7195, 7198, 7200, 7201, 7241, 7283, 7289, 7292, 7294, 7311, 7320, 7322, 7339, 7373, 7387, 7388, 7396, 7446, 7447, 7476, 7493, 7512, 7526, 7539, 7571, 7572, 7573, 7576, 7577, 75782, 7593, 7607, 7612, 7613, 7640, 7652, 7684, 7685, 7800, 7829, 7836, 7837, 7838, 7839 & 7840 of 2022

Date

Order with signature of Judge

- 1) For orders on Nazir report dated 17.10.2022.
- 2) For orders on Nazir report dated 17.10.2022.
- 3) For hearing of CMA No. 24876/2022.
- 4) For hearing of main case.

22.12.2022.

M/s. Dr. Farogh Naseem, Khalid Jawed Khan, Salman Akram Raja, Ovais Ali Shah, Dr. Tariq Masood, Uzair Qadir Shoro, Aijaz Ahmed Zahid, Dr. Shahab Imam, Ameen M. Bandukda, Ahmed Hussain, Ms. Mariam Riaz, Awais Farooqui, Umer Ilyas Khan, Inzamam Sharif, Salman Aziz, Basil Nabi Malik, Arshad M. Tayebaly, Muneeb Qidwai, Aitzaz Manzoor Memon, Ajeet Kumar, Muhammad Ajmal Khan, Nadir Hussain Abro, Saifullah Sachwani, Rashid Khan Mehar, Jahanzeb Awan, Ahmed Ali Hussain, Mohammad Aizaz Ahmed, Darvesh K. Mandhan, Kunwar Mujahid Ali Khan, Muhammad Adnan Motan, Waqar Ahmed, Abdullah Azzam Naqvi, Atir Aqeel Ansari, Qazi Umair Ali, Inzimam Sharif, Hamza Hashim, Muhammad Amayed Ashfaq Tola, Muhammad Asad Ashfaq Tola, Abdul Rahim Lakhani, Muneer Ahmed, Arshad Hussain Shehzad, Naeem Suleman, Shahbakht Pirzada, Zahid Ali Sahito, Samay Shams, Muhammad Ilyas Ahmed, Shams Mohiuddin Ansari, Saima Anjum, Furqan Mohiuddin Ansari, Ali Nawaz Khuhawar, Fahad Khan, Hamza Waheed, Omer Memon, Hanif Faisal Alam, Anas Makhdoom, Ahmed Farhaj, Lubna Pervaiz, Barrister Yousuf Makda, Munawar uz Zaman Juna, Mohsin Khan, K. Jehangir, Rashid Mureed, S. Hassam Abidi, Jawaid Farooqi, Ammar Athar Saeed, Anwar Kashif Mumtaz, Naveed A. Andrabi, Ammar Athar Saeed, Usman Alam, Khalid Mehmood Siddiqui, Ghulam Rasool Korai, Muhammad Taimoor Ahmed, Abid H. Shaban, Imtiaz Ali Sahito, Naveeda Basharat, Muhammad Salman Aziz, Adnan Ali, Syed Zeeshan Ali, Maaz Waheed, Muhammad Aleem, Kashan Bashir Memon, Tauqeer Randhva, Muhammad Ali Bhatti, Imran Iqbal Khan, Arif Ali, Kanwar Yousuf Ali Khan, Abdul Jabbar Mallah and Atta Mohammad Qureshi, Saifullah Khawaja Shahzad Saeed, Aurangzeb, Mashooq Ali Soomro, Muhammad Aziz, Mushtaq Hussain Qazi, Ms. Ghazala Rafiq, Ellahi Bakhsh Qureshi, Muneer Ahmed Sahito, Saifullah Khawaja, Farhad Khan, Abdul Rehman

Adeed, Ms. Mariam Salahuddin, Ms. Sameera Iqbal, Sufiyan Zaman, Faiz Durrani, Ghulam Muhammad, M. Moshin Khan, Jamal Nasir, Ms. Omra Zia Nadeem, Ghulam Nabi Abbasi, Shazia Aziz Khan, Muhammad Syed Muhammad Hassan Meerza, Naveed Sultan, Faheem Bhayo, Sunny Sham, Ilyas Ahmed, S. M. Hassan, Naveed Sultan, Suban Taslem, Raghbir Ibrahim Junejo, Sagar Ladhani, Merajuddin, K. Jahangir, Rashid Mureed, Advocates for Petitioners.

M/s. Faisal Siddiqui, Dr. Shah Nawaz Memon, Ameer Bakhsh Metlo, Dr. Huma Sodher, Muhammad Idrees, Syed Shafqat Ali Shah Masoomi, Amna Usman, Shakoh Zulqarnain, Ms. Fozia M. Murad, Imran Ali Metlo, Fayyaz Ali Metlo, Imran Mithani, Bilal Memon, Mohsin Mithani, Ameer Nausherwan Adil Memon, Hayat Muhammad Junejo, Abdul Hakeem Junejo, Ghazi Khan Khalil, Abdul Razaque Panhwer, Shaheer Saleem Memon, Muhammad Aqeel Qureshi, Mehmood Hussain, Zain Mustafa Soomro, S. Ahsan Ali Shah, S. Mohsin Ali Shah, Arshad Ali Tunio, Sajjad Ali Solangi, Asif Ali Siyal, Abid Ali, Abdul Sami, Zohib, Ghazi Khan, Tasawur Ali Hashmi, Abdul Shakoor Mangi, Mian Rafiq Ahmed Tunio, Ms. Bushra Zia, Syed Mohsin Imam Wasti, Qaim Ali Memon, Ali Tahir Soomro, Ayaz Sarwar Jamali & Zubair Hashmi, Advocates for Respondents.

Mr. Abdul Wahid Shar, Additional Commissioner, Inland Revenue, LTO, Karachi.

Mr. Qazi Ayazuddin Qureshi, Assistant Advocate General Sindh.

The Petitioners have challenged the constitutionality of Section 4C of the Income Tax Ordinance 2001, and provisions appurtenant thereto, introduced vide Finance Act 2022, *inter alia*, upon grounds that the same unlawfully vitiates vested rights accrued in past and closed transactions; is discriminatory; confiscatory; demonstrably devoid of any intelligible differentia having rational nexus with the object of classification; and amounts to impermissible double taxation.

Arguments heard. For reasons to be recorded later and subject to what is set out therein by way of amplification or otherwise, these petitions are allowed in terms of and to the extent specified herein below:

1. Sections 4C of the Income Tax Ordinance 2001 is read to reflect that the levy shall be applicable from the tax year 2023.
2. Notwithstanding the foregoing, the 1st proviso to Division IIB of Part I of the First Schedule to the Income Tax Ordinance 2001 is declared to be discriminatory, hence, ultra vires to the Constitution.

The operation of this judgment shall remain suspended for a period of sixty days from the date hereof; hence, the securities furnished

pursuant to respective *ad interim* orders shall remain intact for the said period.

The office is instructed to place copy of this order in each of the listed petitions.

J U D G E

Arshad/

J U D G E