

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-713 of 2024

a/w C.P. No. D-5741 to D-5746,

D-5778 to D-5781 of 2023

D-5790 to D-5792 of 2023

D-5938, D-6051 & D-6070 of 2023

Date	Order with Signature of Judge
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20-02-2025

For Petitioners

Dr. Muhammad Farogh Naseem Advocate for the Petitioners along with M/s. Shahrukh Farogh Naseem, Sagar Lodhani, Abdul Rehman Adeel and Ms. Saima Anjum & Ms.Pooja Kalpana, Advocates
Mr. Khalid Jawed Khan Advocate for the Petitioners along with M/s.. Muhammad Umer Akhund and Uzair Qadir. Advocates.
Mr. Qazi Umair Ali Advocate for Petitioner
Ms.Lubna Pervaiz, Advocate for Petitioner.
Ms.Mariam Salahuddin, Advocate for Petitioner.

For Respondents

Mr. Shazib Masud Advocate for Respondent FBR along with M/s. Ahmed Mujtaba and Saqib Soomro, Advocates
M/s. Syed Muhammad Aijaz and Muhammad Imran Khan Advocates for Respondent in CP D-6051/2023
Mr. Mirza Nasar Ahmed, Additional Attorney General,
Mr. Zia-ul-Haq Makhdoom Additional Attorney General
Mr. Kashif Nazir, Assistant Attorney General
Ms. Alizeh Bashir, Assistant Attorney General

These petitions challenged the *vires* of section 99D of the Income Tax Ordinance 2001 and the corollary SRO 1588 (I) of 2023 dated 21.11.2023; pertinent to the imposition of *Windfall Tax*. For reasons to be recorded, these petitions, along with all pending applications, are hereby dismissed.

Dr. Farogh Naseem made an oral motion, on behalf of the petitioners, seeking for the aforesaid order to be suspended for a month. Per learned counsel, interim orders had been subsisting in these petitions since 2023, as represented vide the interim order dated 07.12.2023 in CP D 5741 of 2023 and connected petitions.

The interim orders, subsisting till today, specified that “...*the operation of impugned SRO 1588(I)/2023 dated 21.11.2023 will remain suspended in all petitions...*”. In the event that the oral motion was granted, the necessary effect would have been to resurrect the aforesaid order and perpetuate the suspension of the relevant law, notwithstanding that the challenge to the *vires* thereof had already been dismissed.

The Supreme Court has deprecated the tendency to render interim orders having the effect of suspending a law. It has been consistently illumined, especially in revenue matters, that interim orders, having the effect of suspending a law, ought not to be passed. There is a plethora of edicts to

such effect, including *Aitzaz Ahsan*¹, *Aijaz Jato*²; *Dunlop*³; as recently emphasized by the Supreme Court in *Pakistan Oilfields*⁴.

It is our considered view that grant of the oral motion would militate against the edicts of the Supreme Court, including as cited supra. Therefore, we do hereby respectfully deny the oral motion for suspension.

The office is directed to place copy of this order in all connected petitions.

Judge

Judge

Nasir

¹ Per Muhammad Haleem CJ. in *Federation of Pakistan vs. Aitzaz Ahsan & Others* reported as *PLD 1989 Supreme Court 61*.

² Per Shafiur Rehman J. in *Aijaz Ali Khan Jatoi vs. Liaquat Ali Khan Jatoi* reported as *1993 SCMR 2350*.

³ Per Chinnappa Reddy J. in *Assistant Collector of Central Excise vs. Dunlop India Limited* reported as *AIR 1985 Supreme Court 330*.

⁴ Per Syed Mansoor Ali Shah J. in order dated 29.02.2024, rendered in *Commissioner Inland Revenue, Large Taxpayers Office vs. Pakistan Oilfields Ltd. Rawalpindi & Others (Civil Petitions 3472 to 3475 of 2023)*.