ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-3976 of 2026
(Syed Saad Alam versus Foreign Exchange Appellate Board Karachi & others)

Date	Order with signature of Judge

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 19.8.2026

Mr. Sami Ahsan, Advocate for the petitioner
Ms. Wajiha Mehdi, Assistant Attorney General
Mr. Manzoor-ul-Haq, Advocate for the State Bank of Pakistan
Mr. Babar Khan Jadoon, Advocate for Respondent No.2

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: -

> *A) To direct the Foreign Exchange Appellate Board, Karachi (Respondent No.1), to admit the Petitioner's Appeal No. Nil /2024 filed against Ex-parte Judgment dated 26-07-2024, passed in F.E.R. Case No.18972 to 18990/2023, by Joint Director (Adjudication), Banking Services Corporation (Bank) (Respondent No.2), which is pending since 2024, due to part time availability of Bench (temporary non functional), and for want of surety of Penalty amount under Section 23-C(4), of Foreign Exchange Regulation Act, 1947, which was maintained and declared ultravires by the Hon'ble Supreme Court reported as PLD 2025 SC 440 and that benefit may also be extended to the Petitioner so that his pending Appeal can be heard and disposed of on its own merits according to law.*
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> *B) To further direct the Petitioner to amend the Memo of Appeal by filing an application under Order VI, Rule 17, CPC.*

2. The petitioner's case, is that at the request of Respondent No.4, and based on trust, he got M/s. Saad Traders registered in his name as proprietor, although the firm was exclusively operated and managed by Respondent No.4, who also retained the pre-signed cheque books and conducted its business. Respondent No.4 made 19 exports to Uzbekistan worth US$536,900/-, but failed to repatriate the export proceeds, resulting in F.E.R. Cases No.18972 to 18990/2023 against the petitioner. The petitioner maintains that the notices were improperly served and that, without completing the prescribed service formalities, Respondent No.2 proceeded ex parte and on 26.07.2024 imposed a penalty of Rs.4,83,21,000/- upon him and M/s. Saad Traders. A recovery order was thereafter issued to commercial banks, pursuant to which the petitioner's personal salary account was frozen. Aggrieved, the petitioner filed an appeal before the Foreign Exchange Appellate Board in 2024, but the appeal has not been heard due to the requirement of furnishing security equivalent to the penalty and the limited availability of the Karachi Bench. He therefore seeks directions for admission and disposal of his

appeal on merits, particularly in view of the subsequent declaration regarding the impugned security requirement.

3. At the very outset, learned counsel for the petitioner submits that the petitioner has filed appeal under Section 23C of the Foreign Exchange Regulation Act, 1947 (FERA) readwith all other enabling provisions of law and decision is yet to be made by the competent authority within one month time, however, they have demanded the penalty amount, which has already been declared nullity by the Supreme Court of Pakistan in the case of Senior Joint Director Foreign Exchange Operations Division SBP versus Federation of Pakistan & others reported as PLD 2025 SC 440.

4. When confronted the legal position of the case, learned counsel for the respondent also submits that competent authority may be directed to decide the appeal of the petitioner within one month's time without requirement of depositing the surety amount.

5. We have heard the learned counsel for the parties and perused the available record. The controversy before us is essentially limited to the non-hearing of the petitioner's statutory appeal against the ex-parte order dated 26.07.2024 passed in F.E.R. Cases No.18972 to 18990 of 2023. The petitioner has already availed the remedy provided under Section 23-C of the Foreign Exchange Regulation Act, 1947; therefore, this Court, in exercise of its constitutional jurisdiction, would not ordinarily examine the merits of the allegations or substitute itself for the competent appellate forum.

6. At the same time, a statutory remedy must be an effective and meaningful remedy. The mere filing of an appeal cannot be treated as sufficient where the appeal remains unheard for an indefinite period on account of a procedural condition which has subsequently been declared legally unsustainable by the Hon'ble Supreme Court. In the present case, the petitioner's appeal has remained pending since 2024, principally on account of the requirement of furnishing security equivalent to the penalty amount. The said requirement, insofar as it operates as a pre-condition for exercise of the statutory right of appeal, cannot be insisted upon in view of the law declared by the Hon'ble Supreme Court in *Senior Joint Director, Foreign Exchange Operations Division, SBP v. Federation of Pakistan & others*, reported as PLD 2025 SC 440.

7. In view of the above, the present petition, to the extent it seeks adjudication of the merits of the petitioner's statutory appeal, is not tenable, as the petitioner has already availed the efficacious remedy provided under Section 23-C of the FERA. However, in order to secure effective exercise of that statutory remedy and to prevent further delay, the Foreign Exchange Appellate Board is directed to admit and decide subject Appeal No. Nil of 2024, arising out of F.E.R.

Cases No.18972 to 18990 of 2023, within one month from the date of receipt of a copy of this order, strictly in accordance with law and after affording reasonable opportunity of hearing to the parties.

8. In view of the judgment of the Hon'ble Supreme Court reported as PLD 2025 SC 440, the petitioner shall not be required to deposit or furnish surety/security for the amount of penalty as a condition precedent to the hearing or disposal of his statutory appeal. This direction, however, shall not be construed as staying, setting aside or otherwise determining the penalty itself, which shall remain subject to the decision of the competent appellate authority on merits.

9. The appellate authority shall also be at liberty to permit the petitioner to seek amendment of his memo of appeal, if so required, in accordance with law. The present order shall not prejudice the rights of either party before the appellate forum.

10. With the consent of the parties and above directions, the constitutional petition stands disposed of.

JUDGE

JUDGE

Zahid/*