

IN THE SINDH HIGH COURT AT KARACHI

C.P. No. ³¹⁹⁵/2015

03-06-15

M/s Meezan Islamic Fund,
Through its CFO & Company Secretary
Mr. Fazal Hussain Gaffoor
Trustees C.D.C.
C.D.C. House,
S. M. C. H. S., Main Shahrah-e-Faisal,
Karachi.

.....PETITIONER

VERSUS

For n.o

SA
7/14/15

1. Director General (WHT),
Federal Board of Revenue,
FBR House, Constitution Avenue,
Islamabad.
2. Federal Board of Revenue,
Revenue Division,
Through Member (Legal),
FBR House, Constitution Avenue,
Islamabad.
3. THK Associates (Pvt) Limited,
Share Registrars (Withholding Agent)
2nd Floor, State Life Building # 02
Di. Ziauddin Ahmed Road,
Karachi.
4. GAMCO Associates (Pvt.) Ltd
Management Consultants
8-F, Next to Hotel Faran
Nurser, Block -6
P.E.C.H.S Shahrah-e-Faisal
Karachi.
5. Noble Computer Services (Pvt.) Ltd
First Floor, House of Habib Bld. (Siddiqsons Tower)
3 Jinnah cooperative Housing Society,
Main Shahrah-e-Faisal
Karachi.
6. State Bank of Pakistan
I.I. Chundrigar Road
Karachi.

.....RESPONDENTS

CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

10

IN THE HIGH COURT OF SINDH, KARACHI

Present:- Mr. Justice Faisal Arab, C.J.
Mr. Justice Muhammad Iqbal Kalhoro

Const. P. No.D-3195/2015
Meezan Islamic Fund vs. D.G. (WHT) FBR & and others

Const. P. No.D-2340/2015
International Industries Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2341/2015
Shaikh Ashfaq Ahmed Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2710/2015
Paidara Cotton Industries Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2755/2015
A.K.K. Enterprises Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2882/2015
Shanghai Industries Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2941/2015
A.K.K. Enterprises Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2942/2015
A.K.K. Enterprises Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2943/2015
C.S Sons Vs. Fed. Of Pakistan and ors.

Const. P. No.D-2944/2015
A.K.K. Enterprises Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3140/2015
Zubair & others Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3146/2015
A.K.K. Enterprises Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3196/2015
UBL Stock Vs. D.G. WHT and ors.

Const. P. No.D-3197/2015
Al Amin Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3198/2015
UBL Retirement Saving Vs. D.G. WHT and ors.

Const. P. No.D-3199/2015
ABL Stock Fund Vs. D.G. WHT and ors.

Const. P. No.D-3200/2015
ABL Assets Allocation Vs. D.G. WHT and ors.

Const. P. No.D-3201/2015
MCB Pakistan Stock Vs. D.G. WHT and ors.

Const. P. No.D-3202/2015
Al Amin Sharia Vs. D.G. WHT and ors.

Const. P. No.D-3203/2015
Al-Amin Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3324/2015
Asim.Wire Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3328/2015
Bismillah Industries Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3329/2015
Global Steel Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3399/2015
Ajmair Traders Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3438/2015
Al-Meezan Mutual Vs. D.G. WHT and ors.

Const. P. No.D-3439/2015
Al-Meezan Mutual Vs. D.G. WHT and ors.

Const. P. No.D-3440/2015
Meezan Balance fund Vs. D.G. WHT and ors.

Const. P. No.D-3441/2015
Pakistan Islamic Pension Vs. D.G. WHT and ors.

Const. P. No.D-3442/2015
Pakistan Pcnsion Fund Vs. D.G. WHT and ors.

Const. P. No.D-3443/2015
Pakistan Int. Element Vs. D.G. WHT and ors.

Const. P. No.D-3444/2015
Pakistan Sarmiya Vs. D.G. WHT and ors.

Const. P. No.D-3445/2015
MCB DCF Income Fund Vs. D.G. WHT and ors.

Const. P. No.D-3446/2015
Pakistan Cash Management Vs. D.G. WHT and ors.

Const. P. No.D-3448/2015
MCB Cash Management Vs. D.G. WHT and ors.

Const. P. No.D-3449/2015
KSE Meezan Vs. D.G. WHT and ors.

Const. P. No.D-3450/2015
Pakistan Income Vs. D.G. WHT and ors.



Const. P. No.D-3451/2015
Pakistan Strategic Vs. D.G. WHT and ors.

Const. P. No.D-3452/2015
MCB Dynamic Vs. D.G. WHT and ors.

Const. P. No.D-3453/2015
Metro bank Vs. D.G. WHT and ors.

Const. P. No.D-3454/2015
MCB Islamic Income Vs. D.G. WHT and ors.

Const. P. No.D-3455/2015
Pakistan Income fund Vs. D.G. WHT and ors.

Const. P. No.D-3548/2015
Unit Trust Pakistan Vs. D.G. WHT and ors.

Const. P. No D-3549/2015
ABANCO Ltd.Vs. D.G. WHT and ors.

Const. P. No.D-3550/2015
Nafa Govt. Security Vs. D.G. WHT and ors.

Const. P. No.D-3551/2015
Nafa Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3552/2015
Nafa Stock Fund Vs. D.G. WHT and ors.

Const. P. No.D-3553/2015
Nafa Govt. Security Vs. D.G. WHT and ors.

Const. P. No.D-3554/2015
Nafa Income fund Vs. D.G. WHT and ors.

Const. P. No.D-3555/2015
Nafa Asset Vs. D.G. WHT and ors.

Const. P. No.D-3556/2015
Nafa Financial Vs. D.G. WHT and ors.

Const. P. No.D-3557/2015
Nafa Saving Vs. D.G. WHT and ors.

Const. P. No.D-3558/2015
Nafa Pension fund Vs. D.G. WHT and ors.

Const. P. No.D-3559/2015
Nafa Reba Free Vs. D.G. WHT and ors.

Const. P. No.D-3560/2015
Nafa Money market Vs. D.G. WHT and ors.

Const. P. No.D-3561/2015
Nafa Islamic Principle Vs. D.G. WHT and ors.

Const. P. No.D-3562/2015
Nafa Islamic principle Vs. D.G. WHT and ors.

Const. P. No.D-3563/2015
Nafa Multi assets fund Vs. D.G. WHT and ors.

Const. P. No.D-3564/2015
Nafa Islamic fund Vs. D.G. WHT and ors.

Const. P. No.D-3565/2015
Nafa Cash fund Vs. D.G. WHT and ors.

Const. P. No.D-3566/2015
Nafa Islamic income Vs. D.G. WHT and ors.

Const. P. No.D-3567/2015
Nafa Islamic fund Vs. D.G. WHT and ors.

Const. P. No.D-3567/2015
Nafa Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3568/2015
Nafa Islamic principal Vs. D.G. WHT and ors.

Const. P. No.D-3569/2015
ABL Pension Vs. D.G. WHT and ors.

Const. P. No.D-3570/2015
ABL Income Vs. D.G. WHT and ors.

Const. P. No.D-3571/2015
ABL Islamic pension Vs. D.G. WHT and ors.

Const. P. No.D-3572/2015
ABL Cash fund Vs. D.G. WHT and ors.

Const. P. No.D-3573/2015
ABL Govt. securities Vs. D.G. WHT and ors.

Const. P. No.D-3574/2015
ABL Islamic stock Vs. D.G. WHT and ors.

Const. P. No.D-3575/2015
ABL Islamic principal Vs. D.G. WHT and ors.

Const. P. No.D-3576/2015
ABL Islamic principal preservation Vs. D.G. WHT and ors.

Const. P. No.D-3577/2015
ABL Islamic income fund Vs. D.G. WHT and ors.

Const. P. No.D-3578/2015
J.S Fund Vs. D.G. WHT and ors.

Const. P. No.D-3579/2015
J.S Large cap fund Vs. D.G. WHT and ors.

Const. P. No.D-3580/2015
J.S Islamic Govt. security Vs. D.G. WHT and ors.

MW



Const. P. No.D-3581/2015
J.S Value fund Vs. D.G. WHT and ors.

Const. P. No.D-3582/2015
J.S Income fund Vs. D.G. WHT and ors.

Const. P. No.D-3583/2015
JS Islamic fund Vs. D.G. WHT and ors.

Const. P. No.D-3584/2015
J.S Pension saving Vs. D.G. WHT and ors.

Const. P. No.D-3585/2015
J.S Islamic pension Vs. D.G. WHT and ors.

Const. P. No.D-3586/2015
J.S KSE 30 Index Vs. D.G. WHT and ors.

Const. P. No.D-3587/2015
J.S Growth fund Vs. D.G. WHT and ors.

Const. P. No.D-3588/2015
J.S Cash fund Vs. D.G. WHT and ors.

Const. P. No.D-3589/2015
J.S Aggressive assets Vs. D.G. WHT and ors.

Const. P. No.D-3590/2015
Al Amin Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3591/2015
Al-Amin Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3592/2015
Al Amin Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3593/2015
Al Amin Islamic Vs. D.G. WHT and ors.

Const. P. No.D-3594/2015
UBL Gold fund Vs. D.G. WHT and ors.

Const. P. No.D-3595/2015
UBL Islamic saving fund Vs. D.G. WHT and ors.

Const. P. No.D-3596/2015
UBL Govt. security Vs. D.G. WHT and ors.

Const. P. No.D-3597/2015
UBL Saving income Vs. D.G. WHT and ors.

Const. P. No.D-3598/2015
UBL Principal protected fund Vs. D.G. WHT and ors.

Const. P. No.D-3599/2015
UBL Principal protected fund Vs. D.G. WHT and ors.

Const. P. No.D-3600/2015
UBL Liquidity plus fund Vs. D.G. WHT and ors.

Const. P. No.D-3601/2015
UBL Fund Manager Vs. D.G. WHT and ors.

Const. P. No.D-3602/2015
UBL Fund Manager Vs. D.G. WHT and ors.

Const. P. No.D-3603/2015
UBL Islamic cash fund Vs. D.G. WHT and ors.

Const. P. No.D-3604/2015
UBL Financial sector bond Vs. D.G. WHT and ors.

Const. P. No.D-3605/2015
Meezan Cash fund Vs. D.G. WHT and ors.

Const. P. No.D-3606/2015
Meezan Capital fund Vs. D.G. WHT and ors.

Const. P. No.D-3607/2015
Meezan Capital preservation Vs. D.G. WHT and ors.

Const. P. No.D-3608/2015
Meezan Islamic fund Vs. D.G. WHT and ors.

Const. P. No.D-3609/2015
Meezan Financial planning Vs. D.G. WHT and ors.

Const. P. No.D-3610/2015
Meezan Sovereign fund Vs. D.G. WHT and ors.

Const. P. No.D-3611/2015
United Islamic fund Vs. D.G. WHT and ors.

Const. P. No.D-3612/2015
United Regular income Vs. D.G. WHT and ors.

Const. P. No.D-3629/2015
Aamir Steel re-rolling Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3687/2015
Muhammad Younus vs. Fed. Of Pakistan and ors.

Const. P. No.D-3693/2015
Faisal Balance fund Vs. D.G. WHT and ors.

Const. P. No.D-3695/2015
Faisal Islamic saving Vs. D.G. WHT and ors.

Const. P. No.D-3696/2015
Faisal Income and growth fund Vs. D.G. WHT and ors.

Const. P. No.D-3697/2015
Faisal Saving growth fund Vs. D.G. WHT and ors.

Const. P. No.D-3698/2015
Faisal Assets management Vs. D.G. WHT and ors.



7
Const. P. No.D-3699/2015
Faisal Financial sector Vs. D.G. WHT and ors.

Const. P. No.D-3700/2015
Faisal Money market Vs. D.G. WHT and ors.

Const. P. No.D-3701/2015
Faisal Asset allocation Vs. D.G. WHT and ors.

Const. P. No.D-3703/2015
Faisal Asset management Vs. D.G. WHT and ors.

Const. P. No.D-3704/2015
CDC of Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-3705/2015
CDC of Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-3744/2015
Pakistan Mobile Communication Vs. Fed. Of Pakistan ors.

Const. P. No.D-3752/2015
AF Steel Re-Rerolling Vs. Fed. Of Pakistan and ors.

Const. P. No.D-3836/2015
Pakistan Kuwait investment Vs. D.G. WHT and ors.

Const. P. No.D-3837/2015
Pakistan Kuwait investment Vs. D.G. WHT and ors.

Const. P. No.D-4043/2015
Ammar Nasir Vs. Pakistan and ors.

Const. P. No.D-4089/2015
1st Habib Cash fund Vs. D.G. WHT and ors.

Const. P. No.D-4090/2015
Engro Chemical Vs. D.G. WHT and ors.

Const. P. No.D-4091/2015
Engro Fertilizer Vs. D.G. WHT and ors.

Const. P. No.D-4092/2015
Engro Fertilizer Vs. D.G. WHT and ors.

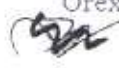
Const. P. No.D-4093/2015
Engro Corporation Ltd. Vs. D.G. WHT and ors.

Const. P. No.D-4095/2015
Engro Corporation Vs. D.G. WHT and ors.

Const. P. No.D-4142/2015
ALTANOVA Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-4143/2015
EBM Ltd. Vs. D.G. WHT and ors.

Const. P. No.D-4144/2015
Orex Leading Vs. D.G. WHT and ors.



Const. P. No.D-4145/2015
EBM Private Vs. D.G. WHT and ors.

Const. P. No.D-4146/2015
Smallen Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-4147/2015
Smallen Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-4148/2015
CORORNET Food Vs. D.G. WHT and ors.

Const. P. No.D-4149/2015
Orex Leading Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-4208/2015
Continental biscuit Vs. D.G. WHT and ors.

Const. P. No.D-4209/2015
Shaikha and Mufti Vs. D.G. WHT and ors.

Const. P. No.D-4210/2015
Mirpur Khas Sugar Vs. D.G. WHT and ors.

Const. P. No.D-4211/2015
Ham Network Ltd. Vs. D.G. WHT and ors.

Const. P. No.D-4212/2015
Zensoft Vs. D.G. WHT and ors.

Const. P. No.D-4213/2015
Mirpur khas sugar Vs. D.G. WHT and ors.

Const. P. No.D-4214/2015
Gets Pharma Vs. D.G. WHT and ors.

Const. P. No.D-4215/2015
Continental biscuits Vs. D.G. WHT and ors.

Const. P. No.D-4230/2015
Tapal Tea Vs. D.G. WHT and ors.

Const. P. No.D-4231/2015
Tapal Tea Vs. D.G. WHT and ors.

Const. P. No.D-4232/2015
Thatta Cement Vs. D.G. WHT and ors.

Const. P. No.D-4233/2015
Thatta cement Vs. D.G. WHT and ors.

Const. P. No.D-4246/2015
IBN Italia Vs. D.G. WHT and ors.

Const. P. No.D-4247/2015
IBA Semen Vs. D.G. WHT and ors.

Const. P. No.D-4248/2015
Magnus Investment Vs. D.G. WHT and ors.

Const. P. No.D-4249/2015
IBM Italia Vs. D.G. WHT and ors.

Const. P. No.D-4307/2015
Layton Rehmatullah Vs. D.G. WHT and ors.

Const. P. No.D-4308/2015
Lotte Chemical Vs. D.G. WHT and ors.

Const. P. No.D-4309/2015
Lotte Chemical Vs. D.G. WHT and ors.

Const. P. No.D-4310/2015
Lotte Chemical Vs. D.G. WHT and ors.

Const. P. No.D-4311/2015
Lotte Chemical Vs. D.G. WHT and ors.

Const. P. No.D-4312/2015
Lotte Chemical Vs. D.G. WHT and ors.

Const. P. No.D-4314/2015
Farooq Private Employees Vs. D.G. WHT and ors.

Const. P. No.D-4315/2015
Multer and Phipps Vs. D.G. WHT and ors.

Const. P. No.D-4316/2015
Multer and Phipps Vs. D.G. WHT and ors.

Const. P. No.D-4317/2015
Syngenta Management Vs. D.G. WHT and ors.

Const. P. No.D-4318/2015
Syngenta Non management Vs. D.G. WHT and ors.

Const. P. No.D-4319/2015
Unicol Ltd. Vs. D.G. WHT and ors.

Const. P. No.D-4320/2015
Syngenta PF Vs. D.G. WHT and ors.

Const. P. No.D-4387/2015
Agha Khan University Vs. D.G. WHT and ors.

Const. P. No.D-4388/2015
Hinopak Motor Vs. D.G. WHT and ors.

Const. P. No.D-4389/2015
Agha Khan University Vs. D.G. WHT and ors.

Const. P. No.D-4390/2015
Hinopak motor Vs. D.G. WHT and ors.



Const. P. No.D-4391/2015
Hinopak ltd Vs. D.G. WHT and ors.

Const. P. No.D-4392/2015
Trustees of Shell Vs. D.G. WHT and ors.

Const. P. No.D-4508/2015
Al abbas Sugar mills Vs. D.G. WHT and ors.

Const. P. No.D-4534/2015
Philips moris Vs. D.G. WHT and ors.

Const. P. No.D-4535/2015
Trust of Pakistan Oman Vs. D.G. WHT and ors.

Const. P. No.D-4536/2015
Philips Moris Vs. D.G. WHT and ors.

Const. P. No.D-4537/2015
Trust of Pakistan Oman Vs. D.G. WHT and ors.

Const. P. No.D-4632/2015
Asia Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4633/2015
Asia Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4782/2015
Greaves Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-4783/2015
Greaves Airconditioning Vs. D.G. WHT and ors.

Const. P. No.D-4784/2015
Gricve Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-4820/2015
Security Paper employees Vs. D.G. WHT and ors.

Const. P. No.D-4821/2015
Security paper Ltd. Vs. D.G. WHT and ors.

Const. P. No.D-4822/2015
Security paper employees Vs. D.G. WHT and ors.

Const. P. No.D-4870/2015
HBL employees Vs. D.G. WHT and ors.

Const. P. No.D-4871/2015
HBL Employees Vs. D.G. WHT and ors.

Const. P. No.D-4872/2015
HBL Employees GF Vs. D.G. WHT and ors.

Const. P. No.D-4873/2015
HBL Employees Provident Vs. D.G. WHT and ors.

Const. P. No.D-4874/2015
HBL Employees BF Vs. D.G. WHT and ors.



Const. P. No.D-4875/2015
HBL Employees Pension Vs. D.G. WHT and ors.

Const. P. No.D-4911/2015
Qasim International Vs. D.G. WHT and ors.

Const. P. No.D-4912/2015
Qasim International Vs. D.G. WHT and ors.

Const. P. No.D-4913/2015
P& O Container Vs. D.G. WHT and ors.

Const. P. No.D-4914/2015
P & O Container Vs. D.G. WHT and ors.

Const. P. No.D-4915/2015
Mackinnen Vs. D.G. WHT and ors.

Const. P. No.D-4916/2015
Mackinnon Vs. D.G. WHT and ors.

Const. P. No.D-4917/2015
Mackinnon Vs. D.G. WHT and ors.

Const. P. No.D-4918/2015
Mackinnon Vs. D.G. WHT and ors.

Const. P. No.D-4925/2015
Kashif Yasin Vs. Pakistan & others

Const. P. No.D-4950/2015
Pakistan Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4951/2015
Pakistan Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4952/2015
Pakistan Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4953/2015
Pakistan Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4954/2015
Pakistan Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-4955/2015
Pakistan Petroleum Vs. D.G. WHT and ors.

Const. P. No.D-5011/2015
Siemens Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-5012/2015
Siemens Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-5013/2015
New Jubilee Vs. D.G. WHT and ors.



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Const. P. No.D-5014/2015
New Jubilee Vs. D.G. WHT and ors.

Const. P. No.D-5033/2015
Trustee of Packages Vs. D.G. WHT and ors.

Const. P. No.D-5034/2015
Trustees of Packages Vs. D.G. WHT and ors.

Const. P. No.D-5035/2015
Trustees of Packages Vs. D.G. WHT and ors.

Const. P. No.D-5036/2015
Trustees of International Vs. D.G. WHT and ors.

Const. P. No.D-5037/2015
Trustees of International Vs. D.G. WHT and ors.

Const. P. No.D-5061/2015
Pakistan Refinery Vs. D.G. WHT and ors.

Const. P. No.D-5062/2015
Pakistan Refinery Vs. D.G. WHT and ors.

Const. P. No.D-5063/2015
Pakistan Refinery Vs. D.G. WHT and ors.

Const. P. No.D-5064/2015
Pakistan Refinery Vs. D.G. WHT and ors.

Const. P. No.D-5065/2015
Pakistan Refinery Vs. D.G. WHT and ors.

Const. P. No.D-5180/2015
NBP Employees Refinery Vs. D.G. WHT and ors.

Const. P. No.D-5269/2015
Trustees of Tri Pack Vs. D.G. WHT and ors.

Const. P. No.D-5270/2015
Trustees of Tri Pack Vs. D.G. WHT and ors.

Const. P. No.D-5326/2015
DHL Vs. D.G. WHT and ors.

Const. P. No.D-5327/2015
DHL Vs. D.G. WHT and ors.

Const. P. No.D-5339/2015
Syed Wahid Ali Vs. Pakistan & others

Const. P. No.D-5347/2015
Sanofi Aventis Vs. D.G. WHT and ors.

Const. P. No.D-5348/2015
Sanofi Aventis Vs. D.G. WHT and ors.



Const. P. No.D-5349/2015
Sanofi Aventis Vs. D.G. WHT and ors.

Const. P. No.D-5399/2015
Pfizer Vs. D.G. WHT and ors.

Const. P. No.D-5400 /2015
Pfizer Vs. D.G. WHT and ors.

Const. P. No.D-5401/2015
Pfizer Vs. D.G. WHT and ors.

Const. P. No.D-5402/2015
Pfizer Vs. D.G. WHT and ors.

Const. P. No.D-5403/2015
Wyeth Vs. D.G. WHT and ors.

Const. P. No.D-5404/2015
Wyeth Vs. D.G. WHT and ors.

Const. P. No.D-5405/2015
Wyeth Vs. D.G. WHT and ors.

Const. P. No.D-5406/2015
Wyeth Vs. D.G. WHT and ors.

Const. P. No.D-6052/2015
Muhammad Arif Vs. D.G. WHT and ors.

Const. P. No.D-6667/2015
Associated Consulting Vs. D.G. WHT and ors.

Const. P. No.D-6668/2015
Associated Consulting Vs. D.G. WHT and ors.

Const. P. No.D-6672/2015
Al-Baraka Bank Vs. D.G. WHT and ors.

Const. P. No.D-6673/2015
Faysal Islamic Vs. D.G. WHT and ors.

Const. P. No.D-6203/2015
BASF Vs. D.G. WHT and ors.

Const. P. No.D-6204/2015
BASF Vs. D.G. WHT and ors.

Const. P. No.D-6205/2015
BASF Vs. D.G. WHT and ors.

Const. P. No.D-6223/2015
INT Industries Vs. D.G. WHT and ors.

Const. P. No.D-6224/2015
INT Industries Vs. D.G. WHT and ors.



Const. P. No.D-6233/2015
Exide Pakistan Vs. D.G. WHT and ors.

Const. P. No.D-6313 /2015
Trustees of Pakistan Cables Vs. D.G. WHT and ors.

Const. P. No.D-6314/2015
Trustees of Pakistan Cables Vs. D.G. WHT and ors.

Const. P. No.D-6354/2015
Bulch Shah Vs. D.G. WHT and ors.

Const. P. No.D-6355/2015
Bulch Shah Vs. D.G. WHT and ors.

Const. P. No.D-6356/2015
Bulch Shah Vs. D.G. WHT and ors.

Const. P. No.D-6378/2015
Bank Al-Falah Vs. D.G. WHT and ors.

Const. P. No.D-6379/2015
Bank Al-Falah Vs. D.G. WHT and ors.

Const. P. No.D-6452/2015
Liaquat National Hospital Vs. D.G. WHT and ors.

Const. P. No.D-6484/2015
General Tyre Vs. D.G. WHT and ors.

C.P. No.D-6805/2015
Clariant Chemical vs. D.G. (WHT) and ors.

C.P. No.D-6806/2015
Clariant Chemical vs. D.G.(WHT) & ors.

C.P. No.D-6177/2015
Pak. Suzuki Motors vs. D.G. (WHT) & Ors.

C.P. No.D-5842/2015
CAA Employees vs. D.G.(WHT) & ors.

C.P. No.D-7001/2015
Karachi Int. Container vs. D.G.(WHT) & ors.

C.P. No.D- 7002/2015
Karachi Int. Container vs. D.G.(WHT) & ors.

C.P. No.D-6955/2015
Atlas Pension Fund vs. D.G. (WHT) and ors.

C.P. No.D-6956/2015
Atlas stock market vs. D.G. (WHT) and ors.

C.P. No.D-6957/2015
Atlas Islamic Fund vs. D.G. (WHT) and ors.

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C.P. No.D-6958/2015
Atlas Income Fund vs. D.G. (WHT) and ors.

C.P. No.D-6959/2015
Atlas Gold Fund vs. D.G. (WHT) and ors.

C.P. No.D-6960/2015
Atlas Pension Fund vs. D.G. (WHT) and ors.

C.P. No.D-6961/2015
Atlas Sovereign Fund vs. D.G. (WHT) and ors.

C.P. No.D-6962/2015
Atlas Money market vs. D.G. (WHT) and ors.

C.P. No.D-6963/2015
Atlas Islamic Fund vs. D.G. (WHT) and ors.

C.P. No.D-7134/2015
Askari Islamic vs. D.G. (WHT) and ors.

C.P. No.D-7135/2015
Askari Sovereign vs. D.G. (WHT) and ors.

C.P. No.D-7136/2015
Askari Islamic income vs. D.G. (WHT) and ors.

C.P. No.D-7137/2015
Askari Asset vs. D.G. (WHT) and ors.

C.P. No.D-7138/2015
Askari Equity Fund vs. D.G. (WHT) and ors.

C.P. No.D-7139/2015
Askari Sovereign vs. D.G. (WHT) and ors.

C.P. No.D-7140/2015
Askari High Yielding vs. D.G. (WHT) and ors.

Date of Hearing : 04.11.2015

Date of Judgment: 02.12.2015

Mr. Naveed Andrabi, advocate alongwith M/s. Usman Alam and Ammar Athar Saeed, advocates for the petitioner in C.P. No. 3195/2015.

Mr. Salahuddin Ahmed, advocate for the petitioners in C.P. No. D-4392/2015.

Ms. Lubna Pervaiz, advocate for the petitioner in C.P. No. D-5180 and 6233 of 2015.

Mr. Emad-ul-Hasan, Advocate for the petitioners in C.Ps. No. D-5061 to 5065, 5842 and 6484 / 2015.

Mr. Jamshaid Malik, advocate for the petitioners in C.Ps. No. D-6313 and 6314 / 2015.

Mr. Farhan A. Jaffri, advocate.



Mr. M. Aqeel Qureshi, advocate for the petitioners in C.P. Nos. D-4142, 4314, 4230, 4568, 4208, 4782, 4314, 4315, 4782, 4508, 4230 of 2015.

Mr. Javed Asghar Rana, advocate for the petitioner in C.P. No. 6177/2015.

Mr. Haider Ali Khan, advocate and Mr. Sami ur Rehman, advocate for the petitioners in C.Ps. No. D-6052, 4925, 5839, 4043 and 5488 / 2015.

Mr. Umar Shoaib Pirzada, advocate for the petitioner in C.P. No. D-4089/2015.

Mr. Amjad Javed Hashmi, advocate for the department.

Mr. Irshad-ur-Rahman, advocate for the department.

Mr. M. Aslam Butt, D.A.G.

Syed Noman Zahid, advocate for respondent No. 6 in C.Ps. No. D-5283 to 5287 / 2015.

Mr. Abid Hussain, advocate for respondent No. 5 in C.Ps. No. D-4392/2015.

Mr. Obaidullah, advocate for respondent No. 7 in C.Ps. No. D-5901, 5902 and 5904 / 2015.

Mr. Naveed Ali, advocate for respondents M/s. Bank Al-Habib and Noble Computers.

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Mr. Naveedul Haq, advocate for HBL Assets Management

Mr. Jaffer Raza, advocate.

Mr. Ghulam Murtaza, advocate for Douche Bank.

Mr. Ijaz Ahmed, advocate.

Ms. Sanam Imtiaz, advocate.

Khursheed Ahmed, Shiraz Saleem ur Rehman,

Mr. Ghulam Murtaza Malik, advocate for respondents in C.P. No. 4534, 4535, 4536 / 2015.

Mr. Fazl-e- Rabi, advocate for petitioner in C.P. No. D-6805, 6806, 6667, 6668 / 2015.

Mr. M.Imtiaz Agha, advocate.

Mr. Shiraz Saleem ur Rahman, advocate for BSO, ABL.

Mr. Shah Nawaz Khan Jamali, Managerial Executive (Legal) National Refinery Ltd. in C.P. No. D-5399, 5401 and 5402/2015.

JUDGMENT

Faisal Arab, C.J.: Impugned in this petition is Circular dated 12.05.2015 which requires that a valid exemption certificate be first obtained prior to availing benefit under Clause 47B of Part IV of the second schedule to the Income Tax Ordinance, 2001. The case of the petitioners is that they fall within the category of entities mentioned in Clause 47B hence stand exempted from advance tax deductions and to avail such concession they are not required to obtain valid exemption certificate under Section 159 of the Income Tax Ordinance. The impugned Circular for convenience sake is reproduced as under:-





03 DEC 2015

IMPORTANT MATTER

Government of Pakistan
REVENUE DIVISION
(FEDERAL BOARD OF REVENUE)

C.No.1(43)DG(WHT)/2008-Vol.II-66417-R. Islamabad, 19th May, 2015

The Chief Commissioner,
Large Taxpayers Unit,
Islamabad/Lahore/Karachi.

The Chief Commissioner,
Regional Tax Office,
Karachi-I/Karachi-II/Karachi-III/Laore-
1/Lahore II/Hyderabad/
Sukkur/Quetta/Multan/Bahawalpur/Sialkot/Rawalpindi/Sar
godha/Faisalabad/Gujranwala/Islamabad/Abottabad/Pesha
war.

Subject: REQUIREMENT OF VALID TAX EXEMPTION
CERTIFICATE FOR CLAIM OF EXEMPTION U/S
150 AND 233 OF THE INCOME TAX ORDINANCE,
2001 IN THE CASES WHERE STATUTORY
EXEMPTION UNDER CLAUSE 47B OF PART - IV OF
SECOND SCHEDULE IS AVAILABLE.

Please refer to the subject

2. It has been learnt by this office that some of the field officers are not issuing specific exemptions in the cases falling within the ambit of subject mentioned provisions on the pretext that statutory exemption under clause (47-B) of part IV of the said schedule is already available to them. Legal position in this case is that any person required to withhold Income Tax may only allow exemption if a valid exemption certificate under section 159(1) of the Income Tax Ordinance, 2001 issued by the concerned Commissioner of Inland / Revenue is produced before him by the withholder.

3. The matter has already been clarified by the Board also vide C.No.1 (29) WHT/2006 dated 30.06.2010 upon the request of Central Directorate of National Savings (CDNS) (copy enclosed).

4. In view thereof, it is re-iterated that exemption certificate in such cases may be issued in the light of Board's above clarification.

Encl: As above.

Sd/-
(SHAUKAT MAHMOOD)
Director General (WHT)

2. On the other hand, the stand taken by the department is that the direction contained in the impugned Circular are based on the statutory requirement of Section 159 of the Income Tax Ordinance as the concession granted under Clause 47B of Part IV to the second Schedule of the Income Tax Ordinance, 2001 can be availed when a person holds a valid exemption certificate



issued to him under Section 159 (1) of the Income Tax Ordinance. It was submitted that in absence of exemption certificate the withholder is legally obligated under Section 159(2) of the Income Tax Ordinance to make advance tax deduction wherever required under the Income Tax Ordinance, 2001. Thus it is the case of the department that unless valid tax exemption certificate from the concerned Commissioner under Section 159(1) is presented to the withholder, the withholder is bound under Section 159(2) to deduct advance tax for matters that are covered under Clause 47B of Part IV to the second Schedule.

3. In order to appreciate the respective stands of both the sides it is necessary to examine the relevant provisions of the Income Tax Ordinance where-under the petitioners can prevent the withholder from making advance tax deductions. These provisions are Clause 47B of Part IV to the second Schedule and Sections 150, 151, 233 and 159 of the Income Tax Ordinance. For convenience sake, Clause 47B is reproduced below:-

Clause 47B of Part IV of the Second Schedule-

"(47B)- The provisions of sections 150, 151, 233 and Part I Division VII of the First Schedule shall not apply to any person making payment to National Investment Unit Trust or a collective investment scheme or a modaraba or Approved Pension Fund or an Approved Income Payment Plan or a REIT Scheme or a Private Equity and Venture Capital Fund or a recognized provident fund or an approved superannuation fund or an approved gratuity fund."

4. Under Sections 150, 151 and 233 of the Income Tax Ordinance every person making certain specified kind of payments is required to first deduct withholding tax. However, to avail such concession, exemption certificate is required to be obtained under Section 159. Section 159 reads as under:-

159. Exemption or lower rate certificate. —(1) Where the Commissioner is satisfied that an amount to which Division II or III of this Part or Chapter XII applies is -

(a) exempt from tax under this Ordinance; or

- (b) subject to tax at a rate lower than that specified in the First Schedule; or
- (c) is subject to hundred per cent tax credit under section 100C, the Commissioner shall, upon application in writing by the person, issue the person with an exemption or lower rate certificate

(1A) The Commissioner shall, upon application from a person whose income is not likely to be chargeable to tax under this Ordinance, issue exemption certificate for the profit on debt referred to in clause (c) of sub-section(1) of section 151.

(2) A person required to collect advance tax under Division II of this Part or deduct tax from a payment under Division III of this Part or deduct or collect tax under Chapter XII shall collect or deduct the full amount of tax specified in Division II or III or Chapter XII, as the case may be, unless there is in force a certificate issued under sub-section (1) relating to the collection or deduction of such tax, in which case the person shall comply with the certificate.

(3) omitted.

(4) omitted.

(5) omitted.

(6) Notwithstanding omission of sub-section (3), (4) and (5), any notification issued under the said sub-sections and for the time being in force, shall continue to remain in force, unless rescinded by the Board through notification in the official Gazette.

5. It can be seen that Clause 47B of Part IV to the second Schedule of the Income Tax Ordinance, 2001 grants statutory exemption to certain category of entities whose payments are covered under the provision of Section 150, 151 and 233 of the Income Tax Ordinance. These payments are not liable to advance tax deduction. Clause 47B by itself, however, is not sufficient to avoid deductions. There is Section 159(2) which provides that a person who is required to make advance tax deductions from the payments that are covered under Division III of Part V of Chapter X or under Chapter XII, which include payments that are covered under Sections, 150, 151 and 233, then it is obligatory on him to deduct withholding tax unless the withholder presents a valid exemption certificate issued under sub-section (1) of Section 159. As it is made obligatory upon the withholder under Section 159 (2) to make advance tax deduction from any payment that falls within the ambit of Division III of



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Part V of Chapter X as well as under Chapter XII, which includes Section 150, 151 and 233, hence unless a valid exemption certificate issued under sub-Section (1) of Section 159 is presented to him, he will deduct withholding tax. It is only upon presentation of exemption certificate issued under Section 159(1) that the withholder stands discharged from its obligation to make advance tax deductions. It is an admitted position that provision of Section 150, 151 and 233 fall within Division III of Part V of Chapter X and Chapter XII and for such payments, requirement of obtaining exemption certificate first has been specifically made mandatory under Section 159(2) before the concession under Clause 47B is availed.

6. From the above, it is evident that in view of the provisions of Section 159(2), it is not left to the withholder to decide not to make advance tax deductions even when a person to whom he has to make payment claims that he is entitled to the exemption under Clause 47B of Part IV to the second Schedule of the Income Tax Ordinance, 2001. The withholder is not to form his own opinion that a person's case falls within the ambit of Clause 47B unless a valid exemption certificate issued under Section 159(1) is presented. Even the person whose payments are otherwise liable for advance tax deduction under Section 150, 151 & 233 cannot insist that he be extended the benefit of Clause 47B in absence of exemption certificate in the face of the provisions of Section 159(2). The entitlement of concession under Section 47B can therefore be availed only when exemption certificate is presented to the withholder and upon such presentation the obligation of the withholder to deduct advance tax as provided under Section 159(2) stand discharged. This was exactly the reason for issuing the impugned Circular dated 12.5.2015 which states "*Legal position in this case is that any person required to withhold Income Tax may only allow exemption if a valid exemption certificate under section 159(1) of the Income Tax Ordinance, 2001 issued by the concerned Commissioner of Inland / Revenue is produced before him by the withholder.*" Thus the impugned circular refers to the provisions of Section 159 of the Income Tax Ordinance which creates statutory obligation upon withholder to deduct advance tax from the payments



falling under sections 150, 151 and 233 unless the requisite exemption certificate is presented to it. It is only upon such presentation, the mandate of the certificate is to be complied with.

7. From the above discussion, it is evident that the concession granted under Clause 47B of Part IV to the second Schedule of the Income Tax Ordinance, 2001 cannot be outrightly availed by the withholder from the withholder on account of the bar contained in Section 159(2) unless the withholder presents a valid exemption certificate issued to him under Section 159(1) of Income Tax Ordinance, 2001. There appears to be a sound logic behind this procedural requirement as the person who want to seek benefit under Clause 47B may be such person who is not entitled to the benefit or in the past may have been so entitled but for some reason had lost his entitlement. Therefore, it has been made mandatory for him under Section 159(2) to first demonstrate to the withholder that he holds a valid exemption certificate. In Clause 47B of Part IV to the second Schedule of the Income Tax Ordinance, 2001 mere mention that the provisions of Sections 150, 151 and 233 shall not apply to certain category of persons does not mean that to avail such concession the provisions of Section 159 have been made inapplicable. On the contrary requirement of obtaining exemption certificate has been made mandatory under Section 159 (2) for all payments that fall within the ambit of Division III of Part V of Chapter X or under Chapter XII of the Income Tax Ordinance and Sections 150, 151 and 233 are part of said Chapters. In the circumstances, the challenge to the impugned Circular dated 12.05.2015 fails. All these 280 petitions are dismissed.

Sd/- 


 02/12/15
 CHIEF JUSTICE

 JUDGE

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P. NOS. D- 3195/2015 and other connected petitions

Date

Order with signature of Judge

02.12.2015

Mr Naveed Andrabi, advocate alongwith M/s. Usman Alam and Ammar Athar Saeed, advocates for the petitioner in C.P. No. 3195/2015.

Mr. Salahuddin Ahmed, advocate for the petitioners in C.P. No. D-4392/2015.

Ms Lubna Pervaiz, advocate for the petitioner in C.P. No D-5080 and 6233 of 2015.

Mr. Emad-ul-Hasan, Advocate for the petitioners in C.Ps. No. D-5061 to 5065, 5842 and 6484 / 2015.

Mr Jamshaid Malik, advocate for the petitioners in C.Ps. No. D-6313 and 6314 / 2015.

Mr Farhan A. Jaffri, advocate.

Mr. M. Aqeel Qureshi, advccate for the petitioners in C.P. Nos. D-4142, 4314, 4230, 4568, 4208, 4782, 4314, 4315, 4782, 4508, 4230 of 2015.

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Mr. Umar Shoaib Pirzada, advocate for the petitioner in C.P. No. D-4089/2015.

Mr. Anjad Javed Hashmi, advocate for the department.

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Mr. M. Aslam Butt, D.A.G.

Syed Noman Zahid, advocate for respondent No. 6 in C.Ps. No. D-5283 to 5287 / 2015

Mr. Abid Hussain, advocate for respondent No. 5 in C.Ps. No. D-4392/2015

Mr. Obaidullah, advocate for respondent No. 7 in C.Ps. No. D-5901, 5902 and 5904 / 2015.

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Mr. Ijaz Ahmed, advocate.

Ms. Sanam Imtiaz, advocate

Khursheed Ahmed, Shiraz Saleem ur Rehman,

Mr. Ghulam Murtaza Malik, advocate for respondents in C.P. No. 4534, 4535, 4536 / 2015

Mr. Fazl-e Rabi, advocate for petitioner in C.P. No. D-6805, 6806, 6667, 6668 / 2015.

ORDER SHEET*

IN THE HIGH COURT OF SINDH, KARACHI

Const. P. Nos. D-3195, 2341, 2710, 2755, 2882, 2941, 2942, 2943, 2944, 3140, 3146, 3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203, 3324, 3328, 3329, 3399, 3438, 3439, 3440, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3451, 3452, 3453, 3454, 3455, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3563, 3564, 3565, 3566, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3576, 3577, 3578, 3579, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591, 3592, 3593, 3594, 3595, 3596, 3597, 3598, 3599, 3600, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3629, 3687, 3693, 3694, 3695, 3696, 3697, 3698, 3699, 3700, 3701, 3703, 3704, 3705, 3744, 3752, 3836, 3837, 4043, 4089, 4090, 4091, 4092, 4093, 4094, 4095, 4142, 4143, 4144, 4145, 4146, 4147, 4148, 4149, 4208, 4209, 4210, 4211, 4212, 4213, 4214, 4215, 4230, 4231, 4232, 4233, 4246, 4247, 4248, 4249, 4307, 4308, 4309, 4310, 4311, 4312, 4314, 4315, 4316, 4317, 4318, 4319, 4320, 4387, 4388, 4389, 4390, 4391, 4392, 4508, 4534, 4535, 4536, 4537, 4632, 4633, 4782, 4783, 4784, 4820, 4821, 4822, 4870, 4871, 4872, 4873, 4874, 4875, 4911, 4912, 4913, 4914, 4915, 4916, 4917, 4918, 4925, 4950, 4951, 4952, 4953, 4954, 4955, 5011, 5012, 5013, 5014, 5033, 5034, 5035, 5036, 5037, 5061, 5062, 5063, 5064 and 5065, 5180, 5269, 5270, 5326, 5327, 5339, 5347, 5348, 5349, 5399, 5400, 5401, 5402, 5403, 5404, 5405, 5406, 6052, 6667, 6668, 6672, 6073, 6203, 6204, 6205, 6223, 6224, 6233, 6313, 6314, 6354, 6355, 6356, 6378, 6379, 6452, 6484 of 2015, 5177 and 5842 of 2015.

Date	Order with signature of Judge
Priority case	

For hearing of applications
For hearing of main case

04.11.2015

Mr. Naveed Andrabi, advocate alongwith M/s. Usman Alam and Ammar Athar Saeed, advocates for the petitioner in C.P. No. 3195/2015.

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Mr. Shiraz Saleem ur Rahman, advocate for BSO, ABL.
Mr. Shah Nawaz Khan Jamali, Managerial Executive (Legal) National Refinery Ltd. in C.P. No. D-5399, 5401 and 5402/2015.

Arguments heard. Reserved for judgment.



[Signature]

CHIEF JUSTICE

[Signature]

JUDGE