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GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE

Subject:- JUDGMENT OF HONORABLE LAHORE HIGH COURT LAHORE ON THE
ISSUE OF CALLING OF RECORD BY THE COMMISSIONER FOR AUDIT
U/S 177 (1) OF THE INCOME TAX ORDINANCE, 2001 IN W.P
NO.4691/2010 AND 310 OTHER PETITIONERS.

Kindly refer to the above subject.

2. Three hundred and eleven (311) petitioners challenged the validity of notices issued by the Commissioner Inland Revenue for audit of their income tax affairs under section 177 of the Income Tax Ordinance, 2001 for tax year 2009 before the Lahore High Court Lahore.

3. The Honorable Court vide order dated 27.05.2015 (F/A) while dismissing all these petitions has held that:-

"41. For reasons recorded above, I find that the impugned notices were validly issued, and the Commissioner had the jurisdiction to issue notices in exercise of his powers under section 177 of the ITO, without selection of a person for audit by the FBR under section 214C of the ITO."

4. The Honorable Court in para-23 of the Order has also observed that:-

"..... the arguments of the learned Counsel for the petitioners that this power of Commissioner was taken away by virtue of Section 214C through Finance Act, 2010 is misconceived and not supported by the language of section 177 and 214C. If at all there was any ambiguity in the matter the legislature itself clarified and explained the same by inserting the afore-noted explanation where for removal of doubt it was declared that the powers of the Commissioner u/s 177 were independent of the powers of the Board u/s 214C and nothing contained in section 214C restricted the powers of the Commissioner to call for record or document including books of accounts of the taxpayer for audit and to conduct audit u/s 177 of the ITO."

5. The Honorable Court while adjudicating upon the ground taken by the petitioner that under section 120 of the Income Tax Ordinance, 2001 treating taxable income

Let's discuss the implications of this (FBR-7)
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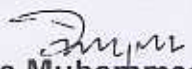
declared in the return by an assessee as an assessment order vested right accrued in favor of the petitioner, in para 26 of the judgment has observed that:-

"26. Perusal of the Income Tax Ordinance, 2001 indicates that mere selection of a taxpayer for audit and calling of books of accounts to verify the version declared in his return under the USAS, which is the main theme on which the entire structure of the Income Tax Ordinance, 2001 has been built, does not cause any injury/prejudice to the taxpayer."

6. This judgment of the Court is of great significance not only for the reason that powers of the Commissioner for audit under 177(1) have been recognized but also for the reason that it has strengthened, the stance of department in more than 300 Intra Court Appeals pending before Lahore High Court against the judgment in case of M/s Chenone Stores & others, whereby the power of the Commissioners to call for record for audit u/s 177(1) were struck down by Single Bench of the same Court and also in Civil Petition pending before the Supreme Court on the same issue in the case of Northern Bottling.

7. Copy of the judgment of the Honorable Court is enclosed for follow up action in cases where petitions have been dismissed.

Encl: As above.


(Rana Muhammad Luqman)
Chief (Legal-I)

The Member (IR-Operations), FBR, Islamabad

✓ The Member (TPA), FBR, Islamabad
U.O. No.1(3)SS(Lit-HC)/2010/35128-L dated 17.06.2015

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Judgment Sheet

IN THE LAHORE HIGH COURT AT LAHORE
JUDICIAL DEPARTMENT

WP No.4691 of 2010

M/s. Kohinoor Sugar Mills *vs.* *Federation of Pakistan etc*

JUDGMENT

Dates of hearing: 03.04.2015, 24.04.2015, 08.05.2015, 15.05.2015,
27.05.2015.

Petitioners by: M/s. Shahbaz Butt, Muhammad Ajmal Khan, Naveed Amjad Andrabi, Muhammad Azhar Siddique, Shahid Parvez Jami, Salman Akram Raja, Syed Ibrar Hussain Naqvi, Rana Munir Hussain, Muhammad Naeem Shah, Khurram Shahbaz Butt, Sajjad Ali Jaafery, Abdul Quddus Mughal, Agha Sarfraz Ahmad, Ahsan ul Haq, Akthar Ali Monga, Asghar Ahmad Khari, Ch. Muhammad Aslam, Ch. Shahid Hussain, Ch. Zahid Attique, Dr. Ilyas Zafar, H.M. Majid Siddiqui, Habib ur Rehman, Ikram ul Haq Sheikh, Jan Muhammad Chaudhary, Javed Athar, Javed Iqbal Qazi, Mian Mahmood Rashid, Mian Muhammad Javed, Mirza Anwar Baig, Moeen Qamar, Mr. Khurram Shehzad Awan, Mudassar Shuja ud Din, Muhammad Naeem Munawar, Muhammad Aleem Irshad, Muhammad Amir Malik, Muhammad Ijaz Ali Bhatti, Muhammad Iqbal Hashmi, Muhammad Mansha, Muhammad Nadeem, Muhammad Naeem Munawar, Muhammad Waseem Chaudhary, Muhammad Younas Khalid, Muhammad Zahid Rana, Qadir Bakhsh, Saeed ur Rehman Dogar, Sarfraz Ahmad, Shahid Shaukat, Shehzad Mehmood Butt, Sufyan Umar, Suhail Ibne Siraj, Syed Ali Imran Rizvi, Syed Irfan Haider Shah, Syed Salman Haider Jaafery and Waqar Azeem, Advocates.

Respondent by: Mr. Imran Aziz, Deputy Attorney General for Pakistan.
M/s. Muhammad Ilyas Khan, Liaqat Ali Chaudhry, Raja Sikandar Khan, Sarfraz Ahmad Cheema,

Muhammad Asif Hashmi, Syed Sajjad Haider Rizvi, Tariq Saleem Sheikh, Muhammad Nawaz Waseer, Mian Yousaf Umar, Javaid Athar, Imran Rasool, Shahid Sarwar Chahal, Ibrar Ahmad, Rai Tariq Saleem, Muqtidar Akhtar Shabbir and Safdar Mehmood, Advocates.

Ijaz ul Ahsan, J: Through this common judgment, I intend to decide this and other constitutional petitions mentioned in Annexure "A" to this judgment. All these petitions raise common questions of law and facts.

2. The petitioners have challenged the validity of notices issued by the Commissioner Inland Revenue for audit of their income tax affairs under Section 177 of the Income Tax Ordinance, 2001 ("ITO") for tax year 2009. Their case, as put forth by their learned counsels, is that proceedings to conduct audit of their income tax affairs have been commenced by the Revenue Authority without allowing them an opportunity of being heard. Resultantly, they have been deprived of their right to file their defence against the intended proceedings which is violative of the principles of natural justice. It has further been contended that the Commissioner Inland Revenue was under a legal obligation to disclose to the taxpayer the basis of selection for audit, confront him with such basis, invite objections from him and finally to pass a speaking order to justify such action. The main argument is that the Commissioner has not followed the aforementioned requirements of law. Consequently, the notices, the selection of cases for audit and the related

proceedings are malafide and utterly illegal. It is further argued that the selection of cases of the petitioners for audit is unlawful, illegal and without jurisdiction insofar as provisions of Section 177 of ITO relating to selection of cases for audit have been substituted through Finance Act, 2010 and a new Section 214-C has been inserted in the ITO. It is submitted that perusal of the substituted section 177 and newly inserted Section 214-C shows that the Commissioner Inland Revenue is no longer vested with the authority to select a person to conduct audit of Income Tax affairs of such person. His power is limited to conducting audit after selection has been made by the Federal Board of Revenue in terms of Section 214-C.

3. The learned counsel for the petitioners have argued that after the aforementioned amendments brought about by way of Finance Act, 2010, power of the Commissioner to select a person for audit has been taken away and the same has been vested exclusively in the Federal Board of Revenue ("FBR"). Therefore, having no power to select under Section 177, the notices issued by the Commissioner calling for record for the purpose of audit are without lawful authority, illegal, and void ab-initio.

4. The learned counsel for the petitioners have further argued that Section 214-C has been inserted while Section 177 has been substituted through Finance Act, 2010. Both new sections are

prospective and cannot be applied retrospectively. It is maintained that the tax year 2009 had already come to close on 30.06.2009 and the income tax returns for the said tax year stood filed and had attained the status of assessment orders on the date of filing, by operation of law in terms of Section 120 of the ITO. Consequently, a vested right had accrued in favour of the assessee which could not be taken away. The amendment in the law cannot be applied retrospectively unless the legislature has specifically given it retrospective effect. It is maintained that the notices addressed to the petitioners constitute a fishing expedition to look for evidence from the records and books of the petitioners. Such expeditions are not warranted by law. It is pointed out that respondent No.2 in any event was under a legal obligation firstly to disclose the basis of selection to the concerned person, secondly to confront him with such basis and finally after inviting objections from the concerned person, pass a speaking order so as to justify such selection. The Commissioner has not followed the aforementioned procedure in consequence of which, notices and proceedings emanating from such notices have lost their legal sanctity.

5. The learned counsel for the respondents, on the other hand, have argued that reasons were recorded by the Commissioners and the conditions of Section 177 were fulfilled in issuing such notices to the petitioners. They submit that even if in some instances reasons have not been communicated, no prejudice has been caused to the Petitioners.

They have merely been summoned by the Commissioner. Once they appear before him and prior to commencement of audit proceedings (if necessary), they would be confronted with the reasons for issuance of the notice and given full opportunity to meet such reasons and defend their position. As such no prejudice has been caused to the Petitioners. It is pointed out that after examining the record and confronting the taxpayers with the discrepancies, if any, in case the Commissioner is dissatisfied with the response, he may proceed to conduct audit of the income tax affairs of the assessee in accordance with law.

6. The learned counsel for the Respondents emphasize that the said audit is qualitatively different insofar as it is record based and on every step reasons are required to be recorded and such reasons are required to be disclosed to the assessee, who on being confronted has an opportunity to respond to the same and defend his position.

7. The learned counsels submit that selection of an assessee for audit by the Federal Board Revenue under Section 214-C is a totally different and independent power which is not record based. It is in the form of computerized balloting which may either be random or parametric. Once the Board undertakes such selection in exercise of its powers under Section 214-C and no reasons for such selection need be disclosed because there are none (except that the computer has picked up a name like a lottery), it may direct a Commissioner to conduct an audit

in accordance with the procedure prescribed under Section 177 or appoint a firm of Cost and Management Accounts to conduct an audit on his behalf. It is, however, clarified that there cannot be overlapping audit in that a person cannot be subjected to two audits, one on the basis of power exercised by the Commissioner under Section 177 and the other on the basis of selection by the Board under Section 214C of the ITO.

8. It is further submitted that in 2013, the position was further clarified and explained by the legislature by declaring that powers of Commissioner under Section 177 were independent of the powers of the Board under Section 214-C and that the provisions of Section 214-C did not restrict the independent power of the Commissioner to call for the record or documents including books of accounts of a tax payer for audit and to conduct audit under Section 177. They submit that simultaneously, a corresponding amendment was inserted in Section 177 to re-affirm the independent powers of the Commissioner to call for record under Section 177 and conduct audit under the said provisions. They further maintain that the amendments inserted in Section 177 and 214-C in 2013 clarified and explained the meaning, scope and intent of the legislature with regard to Section 177 and 214-C of the ITO.

9. Notwithstanding the above, it is submitted that even in the year 2009, the Commissioner enjoyed an independent power to call for

the record of a person or classes of persons and upon being satisfied that there were valid reasons to probe the matter, conduct audit having regard to the criteria given in Section 177(4)(a) to (e). They maintain that notices sent to the petitioners meet the criteria of the original as well as the amended section 177 ITO and therefore, cannot be struck down on the basis of technical objections.

10. The learned counsels for the respondents have vehemently argued that the audit provisions contained in Section 177 and 214-C are admittedly machinery provisions. It is settled law that such provisions are required to be construed liberally in order to facilitate the respondent department to perform its regulatory functions. It is pointed out that the exercise of powers by the Commissioner have been subjected to checks and balances at every level insofar as he is not only required to record reasons but also communicate such reasons to the assessee, who may contest the same and defend himself. Further, such decisions are justiciable before the appropriate fora in the hierarchy provided in the Income Tax Ordinance. It is, therefore, argued that the objections raised by the petitioners against the notices in question are not only pre-mature but also an effort to obstruct and delay a lawful process, which is required to be undertaken by the regulator to ensure that the trust reposed in the taxpayer by the law maker under the Universal Self-Assessment System ("USAS") introduced by the Income Tax Ordinance, 2001 is not abused or violated.

11. The Attorney General for Pakistan was put to notice under Order XXVII-A CPC. The learned Deputy Attorney General has made submissions on his behalf. He has adopted the arguments advanced by the learned counsels for the Respondents. He has, however, pointed out that having been given an independent power in terms of the amendments inserted in the Income Tax Ordinance, 2001 through Finance Act, 2010, the Commissioner has not been granted unbridled and unstructured discretion to select taxpayers for audit. He maintains that the power of the Commissioner to call for the record of any taxpayer for the purpose of conducting audit was always available to the Commissioner and continues to be available in view of the fact that the exercise of discretion by the Commissioner has already been defined and structured through cases reported as Messrs Syed Bhais (Pvt)Ltd through Director vs. Central Board of Revenue, Islamabad through Chairman and another (2007 PTD 239) and Ch. Muhammad Hussain and others vs. Commissioner of Income Tax (2005 PTD 152). He points out that certain observations made in the 2005 judgment *ibid* were struck down by the Hon'ble Supreme Court of Pakistan in its judgment reported as Commissioner of Income Tax and others vs. Fatima Sharif Textile, Kasur and others (2009 PTD 37). However, at page 40 of the judgment, it was observed by the Hon'ble Supreme Court of Pakistan that the Commissioner may issue notice in terms of Section 177 disclosing reasons for selecting a person for audit on the criteria laid down in Chaudhry Muhammad Hussain's case *ibid*. He submits that the

criteria laid down by the Hon'ble Supreme Court of Pakistan still holds field and is binding on the Commissioner who is obliged to disclose reasons for calling the record, give an opportunity to the taxpayer of being heard and in case he is dissatisfied with the explanation offered, he can proceed further to conduct an audit. He further maintains that even thereafter, opportunity of hearing to the taxpayer is available under Section 177(6) after completion of audit and Section 122(9) before an assessment is amended. He further submits that the intention of legislature has clearly and unambiguously been incorporated in the explanation inserted through Finance Act, 2013. After the said explanation, there can be no two views about the fact that the power of the Commissioner under Section 177 is independent of the powers of the Board under Section 214C and nothing contained in the said Section restricts the powers of the Commissioner to call for record or documents for audit and to conduct audit under Section 177.

12. I have heard the learned counsels for the parties and examined the record.

13. The following questions emerge from the arguments made at the bar:

i) Whether the impugned notices under Section 177 of the ITO were required to contain reasons for summoning the record to conduct audit of

the taxpayers and non-disclosure of reasons should automatically lead to such notices being struck down?

ii) Whether the Commissioner could have issued notices under Section 177 of the ITO as substituted by Finance Act, 2010 for the tax year 2009?

iii) Whether notices under Section 177 of the ITO could be issued by the Commissioner without selection of the case of the taxpayer for audit by the Federal Board of Revenue in terms of Section 214-C of the ITO?

14. Before I proceed to address the aforementioned issues, I consider it necessary to trace the changes that Section 177 of the ITO has undergone over the past few years. The contents of Section 177 of the ITO remained unchanged except for minor changes between 2002 to 2008, which are neither material nor relevant to the cases in hand. However, in the years 2009, 2010 and 2013 changes/additions were introduced. These being relevant for the purpose of deciding the lis are being reproduced below for ease of reference:

Finance Act, 2009:

177. Audit. (1) The Board may lay down criteria for selection of any person or classes of persons for an audit of such person's income tax affairs, by the Commissioner.

(2) *The Commissioner shall select a person or classes of persons for audit in accordance with the criteria laid down by the Board under sub-section (1).*

(3) *The Board shall keep the criteria confidential.*

(4) *In addition to the selection referred to in sub-section (2), the Commissioner may also select a person or classes of persons for an audit of the person's income tax affairs having regard to-*

(a) *the person's history of compliance or non-compliance with this Ordinance;*

(b) *the amount of tax payable by the person;*

(c) *the class of business conducted by the person; and*

(d) *any other matter which in the opinion of Commissioner is material for determination of correct income.*

(5) *After selection of a person or classes of persons for audit under sub-section (2) or (4), the Commissioner shall conduct an audit of the income tax affairs (including examination of accounts and records, enquiry into expenditure, assets and liabilities) of such person or classes of persons.*

(6) *After completion of the audit under sub-section (5) or sub-section (8), the Commissioner may, if considered necessary, after obtaining taxpayer's explanation on all the issues raised in the audit, amend the assessment under sub-section (1) or sub-section (4) or section 122, as the case may be.*

(7) *The fact that a person has been audited in a year shall not preclude the person from being audited again in the next and following years where there are reasonable grounds for such audits, particularly having regard to the factors in sub-section (4).*

(8) *The Board may appoint a firm of Chartered Accountants as defined under the Chartered Accountants Ordinance, 1961 (X of 1961), to conduct an audit of the income tax affairs of any person or classes of persons selected for audit by the Commissioner or by the Board and the scope of such audit shall be as determined by the Board on a case to case basis.*

(9) *Any person employed by a firm referred to in sub-section (8) may be authorized by the Commissioner, in writing, to exercise the powers in sections 175 and 176 for the purposes of conducting an audit under that sub-section.*

Finance Act, 2010:

177. Audit.---(1) The Commissioner may call for any record or documents including books of accounts maintained under this Ordinance or any other law for the time being in force for conducting audit of the income tax affairs of the person and where such record or documents have been kept on electronic data, the person shall allow access to the Commissioner or the officer authorized by the Commissioner for use of machine and software on which such data is kept and the Commissioner or the officer may have access to the required information and data and duly attested hard copies of such information or data for the purpose of investigation and proceedings under this Ordinance in respect of such person or any other person:

Provided that _____

(a) the Commissioner may, after recording reasons in writing call for record or documents including books of accounts of the taxpayer; and

(b) the reasons shall be communicated to the taxpayer while calling record or documents including books of accounts of the taxpayer;

Provided further that the Commissioner shall not call for record or documents of the taxpayer after expiry of six years from the end of the tax year to which they relate.

(2) *After obtaining the record of a person under sub-section (1) or where necessary record is not maintained, the Commissioner shall conduct an audit of the income tax affairs (including examination of accounts and records, enquiry into expenditure, assets and liabilities) of that person or any other person and may call for such other information and documents as he may deem appropriate.*

...[Subsections (3) to (5) were omitted]

(6) *After completion of the audit, the Commissioner may, if considered necessary, after obtaining taxpayer's explanation on all the issues raised in the audit, amend the assessment under sub-section (1) or sub-section (4) of section 122, as the case may be.*

(7) *The fact that a person has been audited in a year shall not preclude the person from being audited again in the next and following years where there are reasonable grounds for such audits.*

(8) *The Board or the Commissioner may appoint a firm of Chartered Accountants as defined under the Chartered Accountants Ordinance, 1961 (X of 1961) or a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966), or a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966) to conduct an audit of the income tax affairs or*

any person or classes of persons and the scope of such audit shall be as determined by the Board or the Commissioner on a case to case basis.

(9) Any person employed by a firm referred to in sub-section (8) may be authorized by the Commissioner, in writing, to exercise the powers in sections 175 and 176 for the purposes of conducting an audit under that sub-section.

(10) Notwithstanding anything contained in sub-sections (2) and (6) where a person fails to produce before the Commissioner or a firm of Chartered Accountants or a firm of Cost and Management Accountants appointed by the Board or the Commissioner under sub-section (8) to conduct an audit, any accounts, documents and records, required to be maintained under section 174 or any other relevant document, electronically kept record, electronic machine or any other evidence that may be required by the Commissioner or the firm of Chartered Accountants or the firm of Cost and Management Accountants for the purpose of audit or determination of income and tax due thereon, the Commissioner may proceed to make best judgment assessment under section 121 of this Ordinance and the assessment treated to have been made on the basis of return or revised return filed by the taxpayer shall be of no legal effect."

15. Through Finance Act, 2010, Section 214C was also inserted in the Income Tax Ordinance which provide as follows:

"214C. Selection for audit by the Board.—(1)

The Board may select persons or classes of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit.

(1A) Notwithstanding anything contained in this Ordinance or any other law, for the time being in force, the Board shall keep the parameters confidential.

(2) Audit of Income Tax affairs of persons selected under sub-section (1) shall be conducted as per procedure given in section 177 and all the provisions of the Ordinance, except the first proviso to sub-section (1) of section 177, shall apply accordingly.

(3) For the removal of doubt it is hereby declared that Board shall be deemed always to have had the power to select any persons or classes of persons for audit of Income Tax affairs."

16. In 2013 further amendments were incorporated in Section 214C through Finance Act, 2013. However, these amendments are not material for the decision of the matters before this Court, therefore, the same need not be discussed. However, an explanation inserted in

Section 214C through Finance Act, 2013 is of considerable significance and has direct bearing on the matters before this Court. The same is reproduced below for ease of reference:

"For the removal of doubt, it is declared that the powers of the Commissioner under section 177 are independent of the powers of the Board under this section and nothing contained in this section restricts the powers of the Commissioner to call for the record or documents including books of accounts of taxpayer for audit [emphasis added] and to conduct audit under section 177."

17. While examining the provisions of Section 177 *ibid*, it must be kept in mind that through the Income Tax Ordinance, 2001, the old system of preparation and submission of returns by an assessee and framing of assessment by income tax officers was discarded. A new scheme of self-assessment (USAS) was introduced through Section 120 of the Income Tax Ordinance, 2001 which provides as follows:

"S.120 Assessments.—(1) Where a taxpayer has furnished a complete return of income (other than a revised return under sub-section (6) of section 114) for a tax year ending on or after the 1st day of July-2002,--

(a) *the Commissioner shall be taken to have made an assessment of taxable income for that tax year, and the tax due thereon, equal to those respective amounts specified in the return; and*

(b) *the return shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner on the day the return was furnished.*

(1A) *Notwithstanding the provisions of sub-section (1), the Commissioner may conduct audit of the income tax affairs of a person under section 177 and all the provisions of that section shall apply accordingly.*

(2) *A return of income shall be taken to be complete if it is in accordance with the provisions of sub-section (2) of section 114.*

(3) *Where the return of income furnished is not complete, the Commissioner shall issue a notice to the taxpayer informing him of the deficiencies (other than incorrect amount of tax payable on taxable income, as specified in the return, or short payment of tax payable) and directing him to provide such information, particulars, statement or documents by such date specified in the notice.*

(4) *Where a taxpayer fails to fully comply, by the due date, with the requirements of the notice under*

sub-section (3), the return furnished shall be treated as an invalid return as if it had not been furnished.

(5) Where, in response to a notice under sub-section (3), the taxpayer has, by the due date, fully complied with the requirements of the notice, the return furnished shall be treated to be complete on the day it was furnished and the provisions of sub-section (1) shall apply accordingly.

(6) No notice under sub-section (3) shall be issued after the expiry of one hundred and eighty days from the end of the financial year in which return was furnished and the provisions of sub-section (1) shall apply accordingly."

From the above, it is quite evident that the law maker reposed trust and confidence in the taxpayer in that if he furnished a complete return, such return would be taken to be an assessment order issued to the taxpayer by the Commissioner. However, the taxpayer could not have been given an unqualified and unquestionable right to file a return which would automatically be treated as deemed assessment and an order issued in favour of the taxpayer by the Commissioner. Such a carte blanche would have surely encouraged unscrupulous taxpayers to file erroneous or inaccurate returns to evade tax and thereby cause loss to the revenue of the State. In order to cater for that eventuality and to encourage the taxpayers to file accurate returns, a counterbalance

had to be created so that while filing his returns, a taxpayer would be conscious of the fact that his return may be scrutinized by the competent authorities and if upon such scrutiny the return was found incorrect, legal consequences would follow. This caveat/safeguard was inserted in the Income Tax Ordinance, 2001 through Section 177 thereof by incorporating the power to conduct audit of the Income Tax affairs of a taxpayer under Section 177 *ibid*.

18. It may also be noted that this caveat and safeguard to protect the interests of the State has consistently been kept intact, in the form of conferring upon the Commissioner the power to call for records and on finding discrepancies conduct audit. However, such power of the Commissioner is neither unbridled nor unstructured. It has to be exercised in a manner and subject to the conditions provided in the ITO which would be discussed in the later part of this judgment. Perusal of language of Section 177 from 2003 to 2010 (despite various amendments introduced from time to time) brings out this theme and policy of law clearly and unambiguously.

19. This scheme of the Income Tax Ordinance, 2001 was discussed in Noble Pvt. Ltd. Vs. Federal Board of Revenue (2009 PTD 841) in the following terms:

"Before we examine these sections it will be worthwhile to recapitulate the basic theme behind the repeal of 1979 Ordinance and the promulgation of 2001 Ordinance. The theme or concept was summarized in the following words---

"Voluntary compliance backed by strong audit"

and with this theme/concept in mind the legislature incorporated and promulgated the Income Tax Ordinance, 2001. The basis of the voluntary compliance and the trust that the government has in the taxpayer has been incorporated in section 120 whereas the concept of audit and the procedure for selection of the cases have been outlined u/s. 177. Since the return becomes a deemed assessment order, therefore, to correct an erroneous order or an order in which definite information of concealment is available section 122 has been incorporated to amend such orders."

20. "The power to conduct audit has been incorporated in order to ensure that there is no tax evasion and taxpayers pay the tax which is lawfully due from them under the law. The underlying theme of the entire concept appears to be that while on the one hand the legislature has reposed trust and confidence in the taxpayer in the expectation that he would file accurate tax returns, disclose all taxable income and pay tax on the same, on the other hand, a mechanism to test the trust through possible selection of a return for audit and thereafter scrutiny of the

return for its accuracy and truthfulness has also been built in, so that while filing a return, the taxpayer is mindful of the fact that mere filing of the return would not be enough and subject to the law, there is a possibility of his return being picked up, audited and scrutinized on the basis of the records and books of the taxpayer, which he is required by law to maintain, to verify its accuracy and truthfulness, to ensure that the trust is not betrayed." (Shahnawaz Limited vs. Pakistan through Secretary of Finance 2011 PTD 1558)

21. It is to be noticed that presently merely notice has been issued and no adverse action has been taken or order passed against the petitioner. According to the law laid down in several precedents, there is no valid basis for claiming right of hearing at a preliminary stage. In Commissioner of Income Tax and others vs. Messrs Media Network and others (PLD 2006 S.C. 787), sustenance of claim for right of hearing at a preliminary stage on issuance of notices, in relation to self-assessment scheme introduced under Section 59 of the Income Tax Ordinance, 1979, then in vogue fell for consideration before the Hon'ble Supreme Court of Pakistan. The apex court cited with approval the case of Muhammiad Havat vs. The Chief Settlement and Rehabilitation Commissioner and another (PLD 1970 Lahore 679), in which registration of a criminal case for filing a bogus claim with the Settlement Authorities, on the report of an officer on special duty of the Governor's Inspection Team, without affording an opportunity of

hearing to the accused by the said officer, was held not violative of principles of natural justice. In line with the rule laid down in this case and several other precedents including judgments from foreign jurisdictions, the Hon'ble Supreme Court of Pakistan upheld the Revenue's contention that opportunity of hearing was not required to be given to an assessee by the Commissioner Income Tax at a preliminary stage of making recommendation of their cases to the Regional Commissioner for total audit. It may be observed that there is no allegation of unfair treatment or prejudice by Income Tax Authorities except that there is a vague allegation of malafide without any particulars which is liable to be ignored. The other contentions of the petitioners regarding denial of right to file defence, non-passing of a speaking order and other related pleas are offshoots of the claim for right of hearing at the stage of issuing notice which in light of the aforementioned judgment of the Hon'ble Supreme Court of Pakistan has been found to be premature at this stage.

22. There is no cavil with the proposition that power to select and conduct audit of taxpayers is well entrenched in the scheme of the Income Tax Ordinance and is a fundamental part of the system of checks and balances which are inherent in any scheme of self-assessment. The main question which requires to be determined is which authority was vested with the power to select a taxpayer for audit in 2010 when notices were sent by Commissioner to the petitioners and whether the

Commissioner was vested, at the relevant time, with the power to issue such notices. In order to answer this question, the language and scope of Section 177 as it stood in 2010 *ibid* needs to be examined together with Section 214C as amended from time to time.

23. It is common ground between the parties that the impugned notices were issued by the Commissioner under Section 177 of the ITO as substituted *vide* Finance Act, 2010 in view of the fact that it was the applicable law at the time of issuance of such notices. In my humble opinion, the language of Section 177 clearly confers a power on the Commissioner to call for any record or documents including books of accounts, maintained under the Ordinance for conducting audit of Income Tax affairs of a person. The argument of the learned counsel for the Petitioners that this power of the Commissioner was taken away by virtue of insertion of Section 214C through Finance Act, 2010, is misconceived and not supported by the language of Sections 177 and 214C. If at all there was any ambiguity in the matter, the legislature itself clarified and explained the same by inserting the aforementioned explanation where for removal of doubt it was declared that the powers of the Commissioner under Section 177 were independent of the powers of the Board under Section 214C and nothing contained in Section 214C restricted the power of the Commissioner to call for the record or documents including books of accounts of the taxpayer for audit and to conduct audit under Section 177 of the ITO. It is settled law that where

any statutory law is changed, there is a presumption that it affects change in the legal rights to the extent provided by such amendment and the amending provisions have to be read alongwith un-amended provisions as they are part of the same Act. Reliance in this regard is placed on State Life Insurance Corporation of Pakistan vs. Mercantile Mutual Insurance Company Limited (1993 SCMR 1394).

24. Even otherwise, powers available to the Commissioner under Section 177 are independent and exercisable subject to a different set of conditions on the basis of record before him as compared to the powers available to FBR in terms of Section 214C, which are not record based, consist of power to select by random or parametric ballot and not subject to the same conditions, checks, balances and an obligation to confront and disclose reasons and provide an opportunity to the taxpayer to defend himself, as have been imposed on the Commissioner. In my view these are two independent powers, fundamentally different in nature, genesis, origin, antecedents and conditions. They can coexist independently and be exercised independent of each other. They are not mutually exclusive and are not meant to be so as clearly and unambiguously declared by the legislature by way of the aforementioned explanation inserted through Finance Act, 2013. I do not find any conflict or inconsistency between Section 177 and Section 214C that may require reconciliation.

25. The above rule needs to be applied in light of the fact that no vested right had accrued in favour of the petitioners. The reason being that under Section 120 of the ITO treating of taxable income declared in the return by the assessee, as an assessment order issued to him by the Commissioner is not absolute and final in view of the fact that under Sub-Section 1(A) it is subject to conduct of audit of his income tax affairs by the Commissioner under Section 177 of the ITO, the provisions whereof fully apply to the case of the petitioners. At page 43 of Salmond's Jurisprudence (12th Edition) vested right has been explained as follows:

"vested and contingent rights:

A right vests when all the facts have occurred which must by law occur in order for the person in question to have the right. A right is contingent when some but not all of the vestitive facts, as they are termed, have occurred."

In case of Nabi Ahmed and another vs. Home Secretary, Government of West Pakistan, Lahore and 4 others (PLD 1969 S.C. 599 at page 616) it has been laid down as follows:

"what is a vested right? According to the Oxford English Dictionary, "vested" means "clothed, robed, dressed especially in ecclesiastical vestments Vested rights essentially differ.... from rights which are contingent.... that is completely created....vested interests may perhaps be defined as rights based not

It is noteworthy that filing of complete return of income, demonstrative of real and true income of the assessee is the condition precedent for applicability of clauses "a" and "b" of sub-section 1 of Section 120 of the ITO. The fulfillment of these conditions is verifiable through the audit under Section 177. As already observed, the right conferred on an assessee by Section 120 is not conclusive and decisive. It is amenable to contingencies and thus does not attain the status of a vested right. Furthermore, the petitioners' case is not a past and closed transaction. It is not the case of the petitioners' that they could not have been selected for audit because their cases constituted past and closed transactions.

26. / Perusal of the Income Tax Ordinance, 2001 indicates that mere selection of a taxpayer for audit and calling of books of accounts to verify the version declared in his return under the USAS, which is the

main theme on which the entire structure of the Income Tax Ordinance, 2001 has been built, does not cause any injury/prejudice to the taxpayer because of the following reasons:

- a) Upon selection of a case by the Board for an audit or calling of books of accounts by Commissioner for audit, assessment deemed to have been made by the Commissioner under Section 120(1) of the ITO remains undisturbed.
- b) If correct and true particulars of income have been given in the return and correct tax as per law has been paid, the audit may not result in amendment of assessment under Section 122 of the ITO.
- c) If the audit of record warrants any action under Section 122, before taking such action, proper opportunity of being heard is required to be provided to the taxpayer.
- d) The audit itself is not a conclusion of proceedings. It is only a beginning which may or may not lead to assessment or increase in liability.
- e) The main purpose of selection and audit is to verify the correctness of the assessment made by a taxpayer on the basis of the fact that he files a declaration under Section 114 (2)(b) to the effect that the relevant record alongwith other particulars is kept, a true statement in the

return has been made and records are maintained as per declaration. It is, therefore, an exercise to verify compliance of laws for better administration of tax law with the ultimate objective of ensuring that State receives its due share of revenue out of the income of the taxpayers. A reference in this regard may be made to Messers Syed Bhais (Pvt)Ltd through Director vs. Central Board of Revenue, Islamabad through Chairman and another (2007 PTD 239), Messrs Roots Montessori and High School, Rawalpindi vs. Commissioner of Income Tax (Audit), Rawalpindi and 3 others (2010 PTD 395) and a judgment of this Court rendered in WP No.16022-2011.

27. I am also of the view that the petitions are premature filed on the basis of apprehensions and without exhausting departmental remedies. The same are not maintainable on this ground also. Reliance in this regard is placed on Messrs National Beverages (Pvt)Ltd. vs. Federation of Pakistan and others (2001 PTD 633), Messers Pak Arab Fertilizers (Pvt)Ltd. vs. Deputy Commissioner Income Tax and others (2000 PTD 263) and Sitara Chemical Industries Ltd and another vs. Deputy Commissioner of Income Tax (2003 PTD 1285).

28. It is not the case of the Petitioners that they could not have been selected for audit because their cases constituted past and closed transactions. Their main emphasis is that the mode and manner in which their cases were selected was not sustainable as the Commissioner did

not have the requisite powers to do so at the time that he issued the impugned notices. I do not find any substance in this argument and am unable to subscribe to the same. I have already held that in 2010 (as also previously from 2003 onwards) the Commissioner had the power to summon records of taxpayers (subject to conditions which underwent changes from time to time), to conduct audit, the insertion of Section 214C did not take away the said power and if at all there was any ambiguity, the same has been removed by the legislature by inserting an explanation in the form of a declaration which leaves no room for doubt, confusion or ambiguity. Even otherwise, the petitioners have not been able to show how or if any prejudice has been caused to them by virtue of issuance of the impugned notices under amended Finance Act, 2010 as opposed to the un-amended Section 177 as it existed in the year 2009. The provisions relating to issuance of notice fall in the category of procedural law which is invariably treated as retrospective. There is no vested right to be governed by a particular provision regarding notice.

29. Before proceeding further in the matter, I consider it necessary to examine the scope of the explanation which was added to Section 177 as well as Section 214-C through Finance Act, 2013. It appears that the legislature in its own wisdom considered it necessary to remove any doubts and to clarify the law by inserting an explanation through a legislative instrument. Through the explanation, a declaration has been issued by legislature by stating that the powers of the

Commissioner under Section 177 are independent of the powers of the Board under Section 214C and nothing contained in Section 214C restricts the powers of the Commissioner to call for the record or documents including books of accounts of a taxpayer for audit and to conduct audit under Section 177.

30. The learned counsels for the petitioners have halfheartedly questioned the validity of the explanation and raised issue with the wisdom behind it. However, I am of the view that judicial restraint needs to be exercised in questioning the wisdom of the legislature in enacting a law or an amendment therein subject to the caveat that it has been made competently and without in any manner transgressing the limitations imposed by the Constitution. The learned counsels for the Petitioners have not been able to show how the explanation in question is ultra-vires or beyond the legislative competence of the legislature.

31. As far as the extent and scope of insertion of an explanation by the legislature is concerned, in case there is a doubt about true interpretation of a provision, it is open to the legislature to clarify its intent by introducing amendments in the law which may also be undertaken by adding an explanation. Such explanation is for all intents and purposes clarificatory and declaratory in nature and due effect must be given to it. Further, such clarificatory/declaratory explanation lawfully inserted into a statute may operate retrospectively. In holding

this view, I am fortified by The Commissioner of Income Tax, Central Zone-B, Karachi vs. M/s. Asbestos Cement Industries Limited, Karachi (1993 SCMR 1276), Messers Rijaz (Pvt)Ltd through Executive Riaz A. Gul, Lahore vs. The Wealth Tax Officer, Circle-III, Lahore and another (1996 PTD (Trib.) 489), Messrs Dreamland Cinema, Multan vs. Commissioner of Income Tax, Lahore (PLD 1977 Lahore 292), Commissioner of Income Tax Zona-B, Lahore vs. Sardar Muhammad (2001 PTD 2877), Mamukanjan Cotton Factory vs. The Punjab Province and others (PLD 1975 SC 50), Saveed ur Rehman vs. Chief Election Commissioner, Dacca etc (PLD 1965 SC 157), Muhammad Yusuf vs. Chief Settlement and Rehabilitation Commissioner, Pakistan Lahore and another (PLD 1968 SC 101), Imtiaz Ahmad Lali vs. Ghulam Muhammad Lali (PLD 2007 SC 369) and Yar Muhammad and 4 others vs. Secretary Finance Department, Government of Punjab and others (2011 SCMR 1537).

32. Having come to the conclusion that the explanation added to Sections 177 and 214C being clarificatory/declaratory in nature and having retrospective effect, I find that the Commissioner was at the relevant time legally competent and duly authorized to invoke the provisions of Section 177(1) to issue the impugned notices.

33. A careful perusal of the proviso to Section 177, as it has evolved since 2001 to date, indicates that power of selection of a person

or a class of persons for audit under Section 177 and to conduct such audit has remained with the Commissioner since promulgation of the Income Tax Ordinance, 2001. The power to select a person for audit has also been conferred on the Federal Board of Revenue relatively recently and such power pertains to selection of persons or classes of persons through computer ballot which may be random or parametric. It may be emphasized that there is a fundamental, qualitative and inherent difference between the two. While the exercise of powers by the Commissioner to call for record is based upon the record filed by a person himself which may have been found lacking on cursory examination necessitating closer scrutiny leading to an audit, the power conferred on the FBR is fundamentally different in nature, scope and genesis. It is not record based, no material is available to the FBR and no reasons need to be disclosed to the person why his name has been selected for audit through ballot. Therefore, the argument that the same power could not have been given to the Commissioner as well as the FBR may appear attractive at first glance but on deeper analysis it is found to be without substance. Both powers are independent, distinguishable, based on different parameters and conditioned upon fundamentally different requirements. I, therefore, find that the two powers do not overlap in any manner. The learned counsel for the Department has correctly pointed out that in an unlikely event of a person receiving a notice from the Commissioner calling for his record for the purposes of audit and at the same time being selected by FBR for

computerized, random or parametric balloting, only one audit would be conducted as the procedure for conducting audit would be the same in both instances.

34. The learned counsels for the petitioners have laid great stress on the point that the Commissioner cannot be given unqualified and unbridled powers to issue notices calling for record or documents of any person. It has been pointed out that such wide powers are liable to be used arbitrarily to harass taxpayers which is contrary to the very concept of the universal self-assessment, which was a foundational concept in enacting Income Tax Ordinance, 2001. The powers of the Commissioner under Section 177 are and have been subject to restrictions imposed by statute as well as judgments of superior courts.

The law settled by the Hon'ble Supreme Court of Pakistan in CIT vs. Fatima Sharif Textile, Kasur (1994 Tax 317) and CP No.1664-1665/2009 (Pakistan Mobile Communication Limited case) still holds the field. It is therefore held that the Commissioner is not only required to disclose reasons to the taxpayer in writing for calling for his record, documents, books etc but also grant him an opportunity to defend himself by affording him a hearing. It is only after the objections have been decided through a reasoned order that he may, if necessary, proceed with the audit. The learned counsels for the Respondents on instructions have categorically and emphatically stated that indeed this procedure

would be followed by the Commissioners in letter and spirit, which is in line with the law laid down by the Hon'ble Supreme Court of Pakistan as noted above.

35. The protection and safeguards provided to the taxpayer do not end here. In terms of Section 177(6) yet another safeguard is available where on completion of the audit and before exercising his power to amend the assessment under sub-section (1) and (4) of Section 122, the Commissioner is required to obtain the taxpayers' explanation on all issues raised in the audit. It is only after the explanation offered is found unsatisfactory that the assessment can be amended. Likewise, Section 122(9) provides that no assessment shall be amended or further amended unless the taxpayer has been provided with an opportunity of being heard.

36. It is, therefore, clear and obvious that at every stage, the taxpayer is not only required to be confronted with material against him but is also to be given an opportunity to explain his position.

37. I, therefore, find that there are various checks/safeguards available to a taxpayer in Sections 177 and 122(9) on the exercise of powers by Commissioner which put the actions of the Commissioner under continuous scrutiny.

38. It may be noted that provisions relating to audit are not charging provisions. These provide a mechanism to test the validity of a return filed by a taxpayer who has been trusted by the legislature to submit his return on self-assessment basis. In case the return is found to be a correct reflection of the Income Tax affairs of the assessee, honestly, truthfully and accurately disclosed duly supported by books and records, he would have nothing to fear and no further proceedings would be required to be undertaken. However, in the event that concealment, dishonesty or misstatements are found, then the taxpayer has betrayed the trust reposed in him by the legislature in which event the department must have the requisite powers (subject to the law and safeguards available within the law) to conduct an audit to uncover illegalities and concealment that the taxpayer may have committed and recover what is lawfully due from him under the law.

39. The provisions relating to audit are germane to assessment of taxable income of the assessee and are thus machinery provisions, which as laid down in the case of Nawabzada Muhammad Amir Khan vs. Controller of Estate Duty (PLD 1961 SC 119) should be construed in a manner which makes the machinery workable. Thus, being machinery provisions, audit provisions should be liberally construed to ensure that regulatory powers which are designed to keep a check on taxpayers and facilitate recovery of the amounts which are lawfully due and payable to the State are paid fairly, honestly and transparently. Such provisions are

not to be rendered redundant, ineffective and illusory on the basis of technicalities.

40. It has been pointed out that few of the impugned notices do not disclose reasons on the basis of which records of taxpayers have been summoned. I have asked the learned counsels for the petitioners what prejudice has been caused to them on account of non-disclosure of reasons at this preliminary stage especially so where no further proceedings have been undertaken. The process is at the very initial stage and reasons can be disclosed once the person appears before the Commissioner who would grant him an opportunity to meet those reasons and put up his defence before proceeding further in the matter. The learned counsels for the petitioners have not been able to offer any cogent or legally sustainable argument to show any prejudice having been caused in any manner at this stage. Considering the fact that only notices have received so far and no further proceedings have been undertaken, I find that the said lapse in the notices is not fatal and can be cured by disclosing the reasons to the taxpayer for summoning his record when he appears before the Commissioner and granting him an opportunity of being heard. It is only after the explanation given by taxpayer has been found unsatisfactory by the Commissioner through a reasoned order that he may proceed further to conduct the audit in terms of Section 177. Even otherwise, the said issue could have been raised by the taxpayer before the Commissioner when the notice was received

which was admittedly not done and the petitioners approached this Court directly in exercise of its constitutional jurisdiction without exhausting departmental remedies. I also find that since no prejudice has been caused to the petitioners on account of non-disclosure of reasons at the initial stage, these can still be disclosed. This would adequately meet the requirements of natural justice and due process guaranteed to the petitioners by the law and the Constitution. Therefore, in the facts and circumstances narrated above, there is no valid reason to strike down the notices as null and void on this ground alone.

41. For reasons recorded above, I find that the impugned notices were validly issued, and the Commissioner had the jurisdiction to issue notices in exercise of his powers under Section 177 of the ITO, without selection of a person for audit by the FBR under Section 214C of the ITO. However, in cases where notices do not disclose reasons for calling the record, I direct the concerned Commissioners, before proceeding further, to disclose and communicate reasons to the taxpayers in writing, provide them an opportunity of hearing, decide the objections through reasoned orders and thereafter proceed further (if necessary) justly, fairly and strictly in accordance with law. In cases where reasons have already been communicated, the Petitioners may file their objections and defences which shall be dealt with in accordance with the law and procedure enunciated above and such adjudication shall precede the audit (if any).

42. For reasons recorded above, I do not find any merit in these petitions. The same are accordingly *dismissed*.

(JAZ UL AHSAN)
JUDGE

TRUE COPY

In Case No.

Examination JIS (Writ Branch)
Lahore High Court, Lahore.

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ANNEXURE-A

S.No.	W.P.No.	Title of the Case.
1.	3774-10	M/S.AMIN METAL INDUSTRIES VS. FOP ETC.
2.	732-11	MUHAMMAD RAFIQ TAHIR VS. FOP
3.	11245-11	KASHIF MEHMOOD VS FOP ETC.
4.	4195-11	M/S. ALFAJAR CLOTH HOUSE VS FBR ETC.
5.	4196-11	M/S. S. R. ENTERPRISES VS FBR ETC.
6.	3904-11	M/S. HAMMAD WASTE COTTON FACTORY VS FOP ETC.
7.	4890-11	M/S. PLYMER TEK ETC. VS FOP ETC.
8.	2723-11	ZAINAB TOWERS VS COMMISSIONER INLAND REVENUE ETC.
9.	10862-11	MULTAN FEEDS VS FOP ETC.
10.	4371-10	HASEEB WAQAS SUGAR MILLS VS F.O.P. ETC.
11.	3505-11	M/S. SAHIR ASSOCIATES PVT. LTD. VS FEDERATION OF PAKISTAN ETC.
12.	3490-11	NOON PAKISTAN LTD VS COMMISSIONER INLAND REVENUE ETC
13.	4871-11	M/S. AMRITSAR PAINT VS FOP ETC.
14.	3515-11	M/S. SUPER ASIA VS FBR ETC.
15.	2937-11	SOHAIL ANWAR VS FEDERAL BOARD OF REVENUE ETC.
16.	3377-11	MAULA BAX ICE FACTORY VS F.O.P. ETC
17.	3437-11	M/S MAC & RAINS PVT LTD VS FEDERATION OF PAKISTAN
18.	26405-10	CITOPAK LTD. VS FOP.
19.	11892-11	M/S. G.R. METAL WORKS VS FOP ETC.
20.	9891-10	DESCON ENGINEERING LTD. VS. FOP
21.	11891-11	M/S. GONDAL RICE MILLS VS FOP ETC.
22.	11532-11	M/S. NIAM BROTHERS POLY PROPLENE INDUSTRY VS FOP ETC.
23.	1663-11	AMIR TRADING COMPANY VS FOP.
24.	18878-10	VARIOLINE INTERCOOL PAKISTAN VS FOP
25.	6786-10	RUPALI POLYESTER LTD. VS FOP. ETC.
26.	1258-11	M/S IBRAR TELECOM VS FOP.ETC.
27.	2722-11	M/S. CREATIVE ELECTRONICS PVT. LTD VS FEDERATION OF PAKISTAN ETC.
28.	271-11	SANPAK ENGINEERING PVT LTD. VS FOP.
29.	14976-10	TAHIR ALI RAZA VS COMMISSIONER
30.	26239-10	MOAZZAM KHAN KLAIR VS. FOP
31.	6151-10	M/S.SHAHTAJ SUGAR MILLS VS. FOP
32.	2099-11	DEPILEX PRIVATE LTD. VS CIR.
33.	19360-10	WIRE MANUFACTURING INDUSTRY VS FOP
34.	4808-11	M/S. CHUGHTAI LAHORE LAB VS FOP ETC.
35.	529-11	SANA INDUSTRY VS FOP.
36.	731-11	MEHBOOB ALAM VS. FOP
37.	233-11	READ PVT LTD. VS FOP.
38.	22-11	CHEMITEX (PVT) LTD VS COMMSSIONER INLAND REVENUE ETC
39.	25405-10	PEPCO PAKISTAN GUJRANWALA VS FOP.
40.	272-11	A. N. INDUSTRIES PVT LTD. VS FOP.
41.	4370-10	ABDULLAH SUGAR MILLS VS F.O.P. TC.
42.	1661-11	RIZWAN BROTHERS VS FOP.
43.	4807-11	M/S. REHMAT STEEL MILLS VS FOP ETC.
44.	249-11	FAMOUR BRANDS PVT LTD. VS FOP.
45.	3843-11	M/S CRESCENT SUGAR MILLS AND DISTILLERY LIMITED VS FEDERATION OF PAKISTAN
46.	26413-10	SHEIKH ARSHAD MAJEED VS COMMISSIONER
47.	10569-10	PHARMEDIC LABORATORIES PVT LTD VS FOP
48.	13229-10	SAJJID HUSSAIN VS COMMISSIONER
49.	10450-10	KAUSAR GHEE MILLS PVT LTD VS FOP
50.	1660-11	REHMAN TEXTILE INDUSTRIES VS FOP.
51.	1662-11	COROLLA AGENCIES VS FOP.

52.	18531-10	GHULAM BARI RICE SHELLER VS FOP
53.	24794-10	PAK CHINA MANUFACTURING PVT LTD. VS FOP.
54.	16945-10	TOYOTA SHAHEEN MOTORS VS FOP
55.	238-11	F.F. TRADERS VS FOP.
56.	26995-10	MUHAMMAD ISMAIL VS FOP.
57.	13128-10	M/S FAZAL BARI RICE MILLS VS FBR.ETC.
58.	2145-10	M/S. IBRAHIM FIBERS LTD. VS. FOP
59.	6562-10	HI TECH FEED PVT LTD VS FOP
60.	14259-10	CH. FABRICS VS. FOP
61.	4905-11	M/S. HAIDER ELECTRICAL INDUSTRY VS FOP ETC.
62.	25686-10	POPULAR CHEMICAL WORKS PVT. LTD. VS. FOP
63.	25908-10	SHAHEEN GRINDING MILLS PVT LTD. VS FOP.
64.	8685-10	DAMAS TOOMBAN PVT LTD VS COMMISSIONER
65.	1583-11	M.K.SONS PVT. LTD. VS. FOP
66.	6164-11	KAMRAN STEEL RE ROLLING VS FOP.
67.	4191-11	MUHAMMAD AZEEM ETC. VS COMMISSIONER INLAND REVENUE ETC.
68.	4662-11	M/S.M.A.PACKAGES LAHORE VS. FOP
69.	4751-11	MUHAMMAD ABDULLAH VS COMMISSIONER INLAND REVENUE ETC.
70.	4809-11	M/S. TOYO INTERNATIONAL MOTOR CYCLE VS FOP ETC.
71.	4826-11	M/S. BISMILLAH COLD STORAGE VS FOP ETC.
72.	3032-11	MUGHAL-E-AZAM BANQUET COMPLEX VS FOP ETC.
73.	2955-11	KHALIL AHMAD VS COMMISSIONER INLAND REVENUE ETC.
74.	3068-11	M/S. LAWRENCE PHARMA PVT. LTD. VS FEDERATION OF PAKISTAN ETC.
75.	8632-11	TALON SPORTS PVT. LTD. VS FOP ETC.
76.	2809-11	M/S. CREATIVE ENGINEERING PVT. LTD. VS FEDERATION OF PAKISTAN
77.	25045-10	PUNJAB BEVERGES CO. PVT LTD VS FOP
78.	21520-10	M/S. SOHAIL AHMAD ZARGAR VS THE FOP. ETC.
79.	10673-10	SHAHZAD BROTHERS VS COMMISSIONER
80.	24795-10	MICRONIZER PVT LTD. VS FOP
81.	26762-10	SALMA NAHEED VS FBR
82.	14689-10	FAZAL DIN & SONS VS FOP
83.	8188-10	CHAUDHRY SUGAR MILLS LTD VS FOP
84.	7336-11	M/S. QASAR -E-NOOR NAUROZE VS FOP ETC.
85.	8171-11	M/S. M.A.S. ENTERPRISES VS FOP ETC.
86.	12172-10	SII. MUHAMMAD ASLAM VS. FOP
87.	6163-11	T.A. CORPORATION PVT LTD. VS FOP.
88.	26524-10	FAMILY HOSPITAL LAHORE VS FBR
89.	22263-10	NASCO INDUSTRIES VS FOP
90.	273-11	PAKISTAN ALCO PRODUCTS PVT LTD. VS FOP.
91.	1713-11	VOLTA DIES & MOULDS VS. FOP
92.	24973-10	FAYYAZ BROTHERS RICE MILLS VS. FOP
93.	12153-10	MUHAMMAD MUSHTAQ VS. COMMISSIONER.
94.	2162-11	M/S. HUSEIN SUGAR MILLS LTD. VS FOP. ETC.
95.	4923-10	NEWAGE CABLES LTD. VS. FOP ETC.
96.	23382-10	KHALID WAZIR VS FEDERATION OF PAKISTAN
97.	546-11	SADIQ GAS COMPANY VS FOP.
98.	11149-11	RUPAFAB LTD. VS FOP ETC.
99.	13510-10	SH. MANZOOR AHMAD VS FOP
100.	9200-11	M/S. ROYAL PALACE BANQUET HALL VS FOP ETC.
101.	22693-10	FRIENDS ASSOCIATES PVT LTD VS COMMISSIONER
102.	24547-10	BIGFEED LTD VS F.O.P. ETC
103.	1275-11	METECCENO PAKISTAN PVT. VS THE CIR. ETC.
104.	1156-11	INDUS JUTE MILLS LTD. VS FOP.
105.	22141-10	MUHAMMAD ANWAR VS FOP
106.	245-11	HILBRO INTERNATIONAL PVT LTD. VS COMMISSIONER
107.	1641-11	DADA JEED CORPORATION VS FOP.

108.	26414-10	SHEIKH ABDUL MAJEED VS COMMISSIONER
109.	24598-10	POPLON & CO. PVT LTD. VS COMMISSIONER
110.	24696-10	SADIA FABRICS VS FOP
111.	26192-10	UNIQUE GROUPS OF INSTITUTIONS VS. FOP
112.	1642-11	CHISHTIAN FLOUR MILLS PVT.LTD. FOP
113.	3376-11	AL- KARIM COLD STORAGE VS F.O.P. ETC
114.	3373-11	M/S AMIR TRADERS VS F.O.P.
115.	3368-11	MADINA COLD STORAGE VS F.O.P.
116.	3367-11	PAK COLD STORAGE VS. FOP
117.	3366-11	M/S RANA BROTHERS VS F.O.P.
118.	3365-11	M/S. LAKE CITY HOLDING PVT. LTD. VS FOP & OTHERS
119.	8796-11	SHAMA FOOD PRODUCTS VS FBR ETC.
120.	3699-11	M/S. TOYOTA GARDEN MOTORS PVT. LTD. VS COMMISSIONER INLAND REVENUE ETC.
121.	3725-11	G.R. & SONS VS FOP ETC.
122.	580-11	FAZIL MEMORIAL HOSPITAL VS FOP.
123.	3786-11	M/S. TARIQ BROTHERS VS FOP ETC.
124.	3788-11	M/S. AIRAZ HIGH SCHOOL VS FOP ETC.
125.	3805-11	ALI BHAI ENGINEERS VS FOP ETC.
126.	3806-11	WAHILA COLD STORAGE VS FOP ETC.
127.	11087-11	M/S. AHMAD STRAW BOARD PVT. LTD. VS FOP ETC.
128.	10912-11	M/S. IQBAL BOOK CORNER VS FOP ETC.
129.	8662-11	M/S. AMIN ENTERPRISES VS FOP ETC.
130.	9306-11	M/S. METRO HI-TECH PVT. LTD. VS COMMISSIONER INLAND REVENUE ETC.
131.	3796-11	M/S. REFINE STEELS PVT. LTD. VS FOP ETC.
132.	10160-10	HOSPITALITY ENTERPRISES PVT. LTD. VS. CIR.
133.	9204-11	M/S. JUICE PACK INDUSTRIES PVT. LTD. VS FOP ETC.
134.	16946-10	METALINE ENGINEERING CO VS FOP
135.	14230-10	M/S NEW MIAN FLOUR MILLS VS FOP.ETC.
136.	8114-11	M/S. ALMONIA CONTAINER VS FOP ETC.
137.	789-11	GOGA PLASTIC WORKS VS COMMISSIONER
138.	25337-10	A.M PLASTIC COMPANY VS FOP
139.	718-11	N. I. TRADERS VS FOP.
140.	25403-10	SPELL PETROCHEMICALS PVT LTD. VS FOP
141.	26207-10	LATIF & BROTHERS VS. FOP
142.	26213-10	PRIME SOAP AND CHEMICAL INDUSTRIES VS. FOP
143.	26272-10	HI TECH INK COLOUR CHEMICAL INDUSTRY VS. FOP
144.	26526-10	TECHNO PLASTIC INDUSTRY VS FOP.
145.	25433-10	RJAZ HOSPITAL VS COMMISSIONER
146.	13814-10	MUNIR AHMAD SH. ETC. VS COMMISSIONER INLAND REVENUE.ETC.
147.	20059-10	CH. MUHAMMAD SARWAR ALI VS FOP
148.	26111-10	TELETRONICS INDUSTRIES VS FOP.
149.	3255-11	SALMAN PACKAGES VS FEDERAL BOARD OF REVENUE ETC.
150.	22351-10	UNEXO LABS PVT LTD VS FOP
151.	8909-11	M/S. SAWA INDUSTRIES VS FOP ETC.
152.	10396-11	AL-NOOR FLOUR MILLS VS FBR ETC.
153.	15849-10	RAVI FLOUR MILLS VS. FOP
154.	3889-11	SITARA SPINNING MILLS LTD VS FBR ETC.
155.	11795-11	DESIGN DEVELOPMENT FABRICATION CO. VS FOP ETC.
156.	8170-11	M/S. MUGHAL IRON LTD. VS FOP ETC.
157.	7012-11	MAZHAR STEELS (AOP) VS FOP ETC.
158.	11929-10	BAJWA AGRO INDUSTRIES VS. CIR
159.	5196-10	NELOFAR AMJAD VS. GOVT. OF PUNJAB ETC.
160.	14973-10	PERAL CNG VS FOP
161.	11744-11	DR. GULZAR AHMAD CH. VS FOP ETC.
162.	13953-10	M/S PLASPACK VS FOP.ETC.
163.	11759-11	M/S. HAROON STEEL INDUSTRIES VS FOP ETC.

164.	8734-11	M/S. METRO HIGH TECH PVT. LTD. VS COMMISSIONER INLAND REVENUE ETC.
165.	10990-11	M/S. G.P. PVT. LTD. VS COMMISSIONER INLAND REVENUE ETC.
166.	7418-11	M/S. ANWAR STEEL & GENERAL MILLS VS FOP ETC.
167.	4572-11	M/S PAKISTAN CYCLE INDUSTRIAL COOPERATIVE SOCIETY VS FOP ETC.
168.	3045-11	SHARIF BOARD MILLS (AOP) VS FOP. ETC.
169.	3887-11	ASIF BROTHERS LAHORE VS FBR ETC.
170.	5099-11	IFTIKHAR HUSSAIN VS CHAIRMAN INLAND REVENUE ETC.
171.	4916-11	M/S. JANJUA BROTHERS VS FOP ETC.
172.	7321-11	M/S. TAKBEER TRAVELS VS FOP ETC.
173.	4083-11	M/S. PAK SUPER TEXTILE MILLS VS FOP ETC.
174.	7453-11	M/S. HAMZA PLASTIC INDUSTRIES VS FOP ETC.
175.	5916-11	M/S. MULTI WORKS LAHORE VS. FOP
176.	4400-11	HAMID KHALIL ETC. VS COMMISSIONER INLAND REVENUE ETC.
177.	7474-11	M/S. YASIR IKRAM TEXTILE INDUSTRIES VS FOP ETC.
178.	5503-11	M/S. AKBARI SUPER STORE VS FOP ETC.
179.	10990-11	M/S. G.P. PVT. LTD. VS COMMISSIONER INLAND REVENUE ETC.
180.	5029-11	M/S. SHAKARGARH BRICKS CO. VS COMMISSIONER INLAND REVENUE ETC.
181.	11281-10	RAHIM BAKHSH VS. FOP
182.	6822-11	M/S. HAQ BROTHERS VS FOP ETC.
183.	2659-11	M/S. REET BANQUET HALL VS. FBR
184.	10005-10	ITTEHAD SUGAR MILLS VS. CIR
185.	571-11	MUHAMMAD IQBAL MALIK VS FOP.
186.	11466-10	PAK ELEKTRON LTD. VS. FOP
187.	26214-10	STAR INDUSTRIES VS. FOP
188.	11282-10	MUHAMMAD ASHRAF VS. FOP
189.	14575-10	DR. FAROOQ SAEED VS FOP
190.	11867-11	M/S. IRFAN INDUSTRIES PVT. LTD. VS FBR ETC.
191.	583-11	SIKAANDAR ALI VS FOP.
192.	27026-10	SUPER ASIA MUHAMMAD DINS SONS PVT LTD. VS COMMISSIONER
193.	18879-10	UBC CONVERTEC PVT LTD VS FOP
194.	10137-11	M/S. FIVE STAR TEXTILE IND. VS FBR ETC.
195.	10907-11	M/S. SAHAR COLLECTION VS FOP ETC.
196.	11902-11	M/S. K.S.F. PLASTIC INDUSTRY PVT. LTD. VS FOP ETC.
197.	3674-11	HAMID BRICKS COMPANY VS. CIR
198.	11199-10	EDEN HOUSING LTD. VS. FOP
199.	734-11	MIRZA ABDUL GHAFOOR VS. FOP
200.	26372-10	SHERANWALA STATE AND BUILDERS VS. FOP
201.	7014-11	LADY DR. SAMINA NASIR VS FOP ETC.
202.	2822-11	SH. MAHMOOD UL HASSAN VS FOP ETC.
203.	4508-11	AWAN SPORTS INDUSTRIES PVT. LTD. VS FOP ETC.
204.	4647-11	MUHAMMAD IMRAN BUTT VS FOP ETC.
205.	846-11	MUHAMMAD QASIM VS FOP.
206.	2821-11	MUHAMMAD GOHAR SALMAN VS FOP ETC.
207.	2661-11	M/S. CHENAB BOARD INDUSTRIES VS. FOP
208.	2498-11	MUHAMMAD AFZAL VS COMMISSIONER
209.	20537-10	MUHAMMAD IKRAM VS FOP
210.	10351-11	AHMAD USMAN AMIN VS COMMISSIONER INLAND REVENUE ETC.
211.	2161-11	BABBA SPINNINGS VS FOP.
212.	357-11	NOOR AHMAD VS FOP. ETC.
213.	23381-10	TAHIR WAZIR VS FOP
214.	12071-11	M/S. LUCKY COLD STORAGE VS FOP ETC.
215.	733-11	M/S. LEARNING ALLIANCE LTD. VS FOP. ETC.
216.	23382-10	KHALID WAZIR VS FEDERATION OF PAKISTAN
217.	12196-10	KHALID MEHMOOD VS. FOP
218.	9635-10	M/S. S.H. BROTHER FLOUR MILLS VS. CIR

219.	4177-11	MIAN ARIF MEHMOOD VS COMMISSIONER INLAND REVENUE ETC.
220.	24926-10	CHAWALA FOOTWEAR VS FOP.
221.	2635-11	M/S.MULTI PAK PRINTING PRESS VS. FOP
222.	26277-10	JAVED WORSTED SPINNING MILLS VS. FOP
223.	5069-11	M/S. KILAN BHATTI KHISIT VS COMMISSIONER INLAND REVENUE ETC.
224.	10880-10	CH. SHAUKAD ALI VS. FOP
225.	12686-10	IKAN ENGINEERING SERVICES VS. FOP
226.	19757-10	NISHAT CHUNIAN LTD VS FOP
227.	24643-10	CRESCENT FIBRES LTD VS COMMISSIONER
228.	5070-11	M/S. RAHAT BRICKS CO. VS COMMISSIONER INLAND REVENUE ETC.
229.	332-11	M/S FARAZ FOODS (PVT) LTD. VS FOP.ETC.
230.	4917-11	M/S. JANJUA PLASTIC INDUSTRY VS FOP ETC.
231.	3980-11	M/S.KM STEEL MILLS VS. FOP
232.	9942-11	M/S. SARGODHA FOOD PRODUCTS VS FOP ETC.
233.	9700-11	M/S. EDUCATORS VS FOP ETC.
234.	9965-11	LAHORE GRAMMAR SCHOOL VS FOP ETC.
235.	11829-10	RANA MUHAMMAD SHAHZAD VS. FOP
236.	10034-10	KOT ADDU POWER COMPANY LTD. VS. FOP
237.	976-11	MALIK USMAN STEEL FURNACE VS FOP.
238.	6482-11	QASAR-E-NOOR GARRISON BANQUET HALL VS FOP ETC.
239.	6418-11	HABIB RUBBANI VS FOP ETC.
240.	6419-11	ALI IMRAN VS FOP ETC.
241.	9582-11	M/S. RANJHA KINNO FACTORY VS FOP ETC.
242.	1418-11	LORDS HOTEL & RESTURENT VS COMMISSIONER
243.	7193-11	M/S. W.W. TEXTILES VS FOP ETC.
244.	7534-11	DR. NADEEM HAYAT MALIK VS FOP ETC.
245.	8977-11	MALIK NAEEM ASLAM AWAN VS FOP ETC.
246.	9005-11	MIAN WALI FLOUR MILLS PVT. LTD. VS FOP ETC.
247.	9201-11	M/S. HARRIS SILICONES & GLASS PVT. LTD. VS FOP ETC.
248.	9322-11	THE EDUCATORS VS FOP ETC.
249.	9522-11	GHAYOOR ENTERPRISES VS FOP ETC.
250.	9574-11	ARIF MEHMOOD UPPAL VS FOP ETC.
251.	9186-10	BUNNIES LTD. VS. CIR
252.	9130-10	M/S.KARACHI FLOUR MILLS VS. FOP
253.	14576-10	MODERNO FABRICS VS FOP
254.	9634-11	M/S. INDUS SUGAR MILLS VS FOP ETC.
255.	9651-11	SH. ZAFAR ULLAH VS FOP ETC.
256.	4509-11	MEHRAN HOTEL SIALKOT VS FOP ETC.
257.	12003-10	YOUSAF BAIG VS. FOP
258.	13983-10	ALLENORA BEAUTY PARLOUR VS FOP
259.	13922-10	MIRZA YOUNAS & COMPANY VS COMMISSIONER
260.	7681-11	M/S. AQEEL INDUSTRY VS FOP ETC.
261.	3254-11	NAUM TEX FAISALABAD VS FEDERAL BOARD OF REVENUE ETC.
262.	27012-10	ANMOL PLASTIC INDUSTRIES VS FOP.
263.	3257-11	NAWAZ AHMAD VS FEDERAL BOARD OF REVENUE ETC.
264.	3256-11	G.M. SONS FAISALABAD VS FEDERAL BOARD OF REVENUE ETC.
265.	25494-10	METALINE INDUSTRIES PVT LTD VS FOP.
266.	1399-11	SUKH CHAN WELLNESS CLUB PVT. LTD. VS CIR.
267.	13845-11	M/S. AL MIRAJ BAKERS VS. FOP ETC.
268.	13632-11	M/S. CIVIL METAL WORKS VS. FOP ETC.
269.	13871-11	M/S. FINE ART PRESS VS. FBR ETC.
270.	13995-11	M/S. SHEIKH ABDULLAH & SONS VS. FOP ETC.
271.	14312-11	M/S. INTERNATIONAL VS. FBR ETC.
272.	14313-11	M/S. SUPER INDUS ELECTRICAL INDUSTRIES VS. FBR ETC.
273.	14377-11	TALIB BROTHERS ENGINEERING WORKS VS. FOP ETC.
274.	14570-11	M/S. PURI TEXTILES VS. ISLAMIC REPUBLIC OF PAKISTAN ETC.

275.	14387-11	M/S. TEXTILE PACKERS VS. FOP ETC.
276.	13197-11	M/S. UNIQUE EMBROIDERY VS FOP ETC.
277.	13172-11	M/S. SAUDAGAR THERMOPOLE VS. FOP ETC.
278.	13631-11	DOLLAR EAST EXCHANGE CO. VS. FOP ETC.
279.	13559-11	M/S. AISA RICE MILLS VS. FOP ETC.
280.	13466-11	M/S. NASIR MEAT & TIKKA VS. FOP ETC.
281.	13456-11	M/S. GHIOUSIA TEXTILE WEAVING VS. FBR ETC.
282.	13343-11	M/S. KHIZAR HOSPITAL VS. FOP ETC.
283.	13249-11	MURAD AMIN VS. COMMISSIONER IR ETC.
284.	12661-11	M/S. ADIL ZAFAR MOTORS VS. FOP ETC.
285.	4507-11	M/S. HASSAN FABRICS VS. FOP ETC.
286.	17386-10	SHAFIQUE SUPREME RICE VS. COMMISSIONER IR ETC.
287.	3774-10	M/S. AMIN METAL INDUSTRIES VS. FOP ETC.
288.	732-11	MUHAMMAD RAFIQ TAHIR VS. FOP
289.	11245-11	KASHIF MEHMOOD VS FOP ETC.
290.	4195-11	M/S. ALFAJAR CLOTH HOUSE VS FBR ETC.
291.	13518-11	M/S. SCIENCE LOCUS SCHOOL VS. FOP ETC
292.	13558-11	M/S. PRINCE TRADERS RICE DEALER VS. FOP ETC
293.	12796-11	M/S. NASEEM PACKAGES VS. FOP ETC
294.	12822-11	UNITED LUBRICANTS PVT. LTD. VS. FOP ETC
295.	13046-11	M/S. FINE PACK VS. FOP ETC
296.	13094-11	NEW KHAN COMMISSION SHOP VS. FOP ETC
297.	12712-11	M/S. IG WOOLEN MILLS VS. FOP ETC
298.	12713-11	M/S. RH ROPE INDUSTRIES VS. FOP ETC
299.	12728-11	M/S. MM KNITWEAR PVT. LTD. VS. FOP ETC
300.	26525-10	M/S. YASIN INDUSTRIES VS. FOP ETC
301.	11959-11	M/S. SPRING FIELD PUBLIC SCHOOL VS. FOP ETC
302.	12015-11	M/S. BASHIR JALIL ENTERPRISES VS. FOP ETC
303.	12326-11	M/S. MINHAS SERVICES STATION VS. FOP ETC
304.	12531-11	M/S. NEW ASIA WOOLEN MILLS VS. FOP ETC
305.	12532-11	M/S. MADNI DYING & PRINTING MILLS VS. FOP ETC
306.	13473-10	M/S ESSEM HOTELS PVT. LTD. VS. FOP
307.	25881-20	M/S. AUTOMATE PAKISTAN VS. FOP
308.	12755-11	KHUSHI MUHAMMAD COMMISSION SHOP VS. FOP
309.	13972-11	M/S. ANMOL STEEL MILLS VS. FOP
310.	12564-11	M/S. DYNASEL LTD. VS. FOP
311.	12751-11	KHUSHI MUHAMMAD COMMISSION SHOP VS. FOP

27/05/11

(JAZ) UL AHSAN)
JUDGE

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In Case No.

Examiner: JS (Writ Branch)
Labour High Court, Lahore