

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
C.P. No.D-3834 of 2022

DATE	ORDER WITH SIGNATURE(S) OF JUDGE (S)
-------------	---

1. For hearing of CMA No.16760/2022
2. For hearing of main case

28.06.2022

Mr. Arshad Hussain Shahzad, Advocate for the Petitioner
Mr. Khaleeq Ahmed, DAG

Syeda Abida Bukhari, Advocate undertakes to file vakalatnama on behalf of Respondent No.2. Let such vakalatnama be filed in the office. On the other hand, learned counsel for the petitioner submits that through instant petition, the vires of Super Tax under Section 4B of the Income Tax Ordinance, 2001 imposed through Finance Act, 2015 has been challenged, however, this issue has already been decided by a Division Bench of this Court in C.P. No.D-1849/2016 & others vide Judgment dated 21.07.2020 wherein it has been held that Super Tax under Section 4B of the Income Tax Ordinance, 2001 is not ultra vires of the Constitution, therefore, submits that this petition can be disposed of in similar terms. Accordingly, by consent this petition is disposed of in terms of Para-17 of the aforesaid judgment, which reads as under:-

- (a) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act, 2015 along with Money Bill possess the characteristics of a tax, for being a compulsory exaction of money by public authority for the purposes of general revenue, whereas, the amount to tax so charged goes to Federal Consolidated Fund, therefore, has been rightly introduced under Article 73(2)(a) of the Constitution of the Islamic Republic of Pakistan, 1973, hence intra-vires to the Constitution;
- (b) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act 2015, along with Money Bill is an additional tax on income covered under Entry 47 of the IV Schedule to the Constitution "taxes on income", and does not amount to double taxation, therefore, falls within the legislative competence of the National Assembly to impose, abolish, remit, alter or regulate a tax, through

Finance Act along with Money Bill under Article 73(2)(a) of the Constitution of the Islamic Republic of Pakistan, 1973, hence intra-vires to the Constitution.

- (c) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act, 2001 along with Money Bill is not violative of the Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973 as it is neither discriminatory nor creates any unreasonable classification amongst the same class of the person upon whom its charge has been created, while applying the common burden through uniform rate of tax upon Banking Companies @ 4% of the income, and person other than Banking Company, having income equal to or exceeding Rs.500 Million @ 3% of the income.
- (d) The Super Tax imposed under Section 4B of the Income Tax Ordinance, 2001 through Finance Act 2015 along with Money Bill is not a fee as there is no element of quid pro quo, nor the amount of Super Tax is charged as consideration for rendering any services to its payer in any manner.

The Petition stands dismissed in the aforesaid terms alongwith listed application.

J U D G E

J U D G E