

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No.D-2243 of 2020

Date	Order with Signature of Judge
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1. For hearing of Misc. No.10456/2020
2. For hearing of main case

01.11.2021

Qazi Umair Ali, advocate for the petitioner
Mr. Kafeel Ahmed Abbasi, DAG
Mr. Hussain Bohra, Assistant Attorney General
Mr. Shahnawaz Memon, advocate for respondent No.3

Learned counsel for the parties at the very outset, submit that the controversy agitated through instant petition, whereby the vires of Super Tax Levied under Section 4B of the Income Tax Ordinance, 2001 through Finance Act, 2015, has already been decided by a Divisional Bench of this Court in the case of M/s HBL Stock Fund v. Additional Commissioner I.R. and others in C.P. No. D-1849/2016 & others vide judgment dated 21.7.2020, therefore, submit that this petition can also 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 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.

This petition stands disposed of in the aforesaid terms along with listed application.

JUDGE

JUDGE

Zahid*