

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-7734 / 2022

Date

Order with signature of Judge

PRIORITY.

- 1) For orders on CMA No. 3487/2023.
- 2) For hearing of CMA No. 32748/2022.
- 3) For hearing of main case.

06.02.2023.

Mr. Ali Mehdi, Advocate for Petitioner.
Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General.
Mr. G. M. Bhutto, Assistant Attorney General.
Mr. Qaim Ali Memon, Advocate for Respondent.

1) Urgency granted.

2 & 3) This matter pertains to the *vires* of section 4C of the Income Tax Ordinance 2001 and provision/s appurtenant thereto, related to imposition of super tax. The issue stands determined by this Division Bench in the case of *Shell Pakistan Limited vs. Federation of Pakistan & Others* (CP D 5842 of 2022 and connected petitions), vide short order announced on 22.12.2022 and detailed reasons issued on 13.01.2023 (“*Shell Pakistan*”).

Therefore, in *mutatis mutandis* application of the reasoning and rationale so assigned in *Shell Pakistan*, the subject petition is also disposed of upon the same terms, being:

“1. Sections 4C of the Income Tax Ordinance 2001 is read to reflect that the levy shall be applicable from the tax year 2023.

2. Notwithstanding the foregoing, the 1st proviso to Division IIB of Part I of the First Schedule to the Income Tax Ordinance 2001 is declared to be discriminatory, hence, ultra vires to the Constitution.

The operation of this judgment shall remain suspended for a period of sixty days from the date hereof; hence, the securities furnished pursuant to respective ad interim orders shall remain intact for the said period.”

JUDGE

JUDGE

Arshad/