

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Const. Petition No. D-132 of 2019

and others

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Date	Order with signature of Judge(s)
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For hearing of main case

**14.12.2023**

**Messrs.** Ayan Mustafa Memon assisted by Ali Zuberi, Habibullah Masood, Amna Khalil, Nawaz Khan and Shahreen Chughtai, (Khwaja Shamsul Islam along with Imran Taj, Imtiaz Ali Shah & Khalil Awan, in C.P. No. D- 2603/2023), (Ms. Naheed A. Shahid & Daniyal Ellahi in C.P. No. D- 71/2022 & 848/2023), (Ali John, Altamash Arab, Advocate in C.P. No. D- 6819/2022), Abdul Wajid Wyne, (M. Rafi Kamboh, in C.P. No. D- 6396 & 6397 of 2020), Arif Khan, (M. Saad Siddiqui and Sahibzada Mubeen in C.P. No. D- 840/2022, 5861/2021, 3246/2021, 2970/2020, 1494/2019), Farhan Zia Abrar, (Zain A. Jatoi, Muhammad Mustafa Mumtani, Advocate in C.P. No. D- 2521/2022), (Ghulam Haider Shaikh in C.P. No. D- 1251/2021), (Abid Hussain and Zahid Mehmood in C.P. No. D- 3170 & 3171 of 2021), (Fahad Arif Khilji in C.P. No. D- 3763 and 3764/2021), Ahmed Mujtaba in C.P. No. D- 3803/2022, Naeem Suleman, Arshad Hussain Shehzad, Waseem Farooq, Tauqir Randhawa, Kashan Ahmed, (Mian Mushtaq Ahmed in C.P. No. D- 4306 to 4327 of 2017 and 3532/2018), Hanif Faisal Alam, (Hassan Khursheed Hashmi in C.P. No. D- 5521/2022), (Salman Mirza and Ahmed Magsi in C.P. No. D- 132/2019, 3135/2021 and 3359/2021), Abdul Qayoom Abbasi, Raja Muhammad Safeer (Syed Maqbool Hussain Shah in C.P. No. D- 2797/2021, Syed Noman Zahid Ali, Ahsan Rahat Ali, (Mehmood Ali for IBA and Behzad Haider in C.P. No. D- 5459/2022), (Ahmed Madni & Peer Ali in C.P. No. D- 446 of 2023), (Ms. Sadia Sumera in C.P. No. D- 4184/2022), (Ahmed Nizamani in C.P. No. D- 3246/2021), Dr. Rana Khan, (Rajesh Kumar in C.P. No. D- 5673/2021), (Malik Khushhal Khan in C.P. No. D- 3987/2018 & 946/2022), Muhammad Naved, (Fazal Mehmood Sherwani in C.P. No. D- 4159/2020), Masood Ali, Advocates for Petitioners.

**Messrs.** (Abdullah Munshi, Shajeeuddin Siddiqui and Imdad Ali Bhatti for Clifton Cantonment Board in C.P. No. D-4985/2018, 5391/2018, 3426/2018, 5166/2018, 5167/2018, 6506/2020 & 1251/2021), (Farooq Hamid Naek assisted by Syed Qaim A. Shah, G. Murtaza Bhanbhro and Saad H. Ammar in C.P. No. D- 132/2019 and 1220/2023 for Respondent No.2), Dr. Farogh Naseem, Ahmed Ali Hussain, S. Zaeem Hyder, Aman Aftab, M. Aizaz Ahmed, Syed Shohrat Hussain Rizvi for Karachi Cantonment Board, Aqib Hussain, (Afnan Saiduzzaman

Siddiqui, Iftikhar Hussain, Zohra Ahmed for CBC in C.P. No. D-1228/2019, 1949/2019 & 946/2022), (Dr. Shahab Imam & Syeda Abida Bukhari for CBC in C.P. No. D- 1220 and 2603/2023), Ashraf Ali Butt, Rehmatunnisa, Sohail H.K. Rana, Ms.Huma F. Bhutto, Fahim Haider Moosvi, (Zain A. Soomro for Respondent No.2 in C.P. No. D- 1661 and 249 of 2021), Akhtar Hussain Shaikh, Syed M. Ghazen, Shahid Ahmed for KW&SC, K, A. Jahangir in C.P. No. D- 3100/2023 for CBC, (Muhammad Aqeel Qureshi in C.P. No. D- 4606/2020), (Shahid Hussain Korejo in C.P. No. D- 6803/2022 for respondent No.2), (Saqib Soomro and Ahmed Mujtaba in C.P. No. D- 6806/2022 for respondent No.2), (Ameer Ali Soomro in C.P. No. D- 6805/2022 for respondent No.2), (Asif Amin for Respondent No.2 in C.P. No. D- 1333/2021), Fozia M.Murad for Respondent in C.P. No. D- 132/2019, 3023, 3669, 7318, 7460 of 2015, (Mr.Talha Abbasi for DHA in C.P. No. D- 4985/2018), Advocates for Respondents.

M/s. Zeeshan Adhi Addl.AG, Saifullah and Sandeep Molani,  
Asst.AG

Qazi Abdul Hameed Siddiqui, DAG, Khaleeq Ahmed DAG,  
Malik Sadaqat Khan Addl. Attorney General and Qazi  
Ayazuddin, Asst. Attorney General

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For the reasons to follow, the listed Petitions are disposed of in the following terms:

- I. The Eighteenth Amendment brought a change to and amended Entry 50 in the Fourth Schedule (Federal Legislative List) of the Constitution of the Islamic Republic of Pakistan. As a consequence thereof, the Federation and all Cantonment Boards lack competence, power, and jurisdiction to levy, charge, impose and recover any or all tax(es) on any immovable property, including, but not limited to, tax on the annual rental value of immovable property.
- II. Further, the Eighteenth Amendment, consequently, restored the competence and jurisdiction of the Province to levy, charge, recover, and legislate on the subject identified above and to pursue it accordingly.

III. Finally, the amounts so recovered by the Cantonment Boards under the aforesaid subject of tax since the Eighteenth Amendment also call for an account.

At the time of announcement of this short order, Mr. Farogh Naseem, learned counsel appearing for some of the Cantonment Boards has requested that since a short order has been passed in the above terms and the competence, power and jurisdiction of the Cantonment Boards could not be enforced for aforesaid subject, therefore, in terms of clause (iii) of the short order, the petitioners may not move applications in the next four weeks either for the adjustment or refund of the amount paid towards the aforesaid subject i.e tax on the annual rental value of the property, as the Respondents intend to approach the Supreme Court. Order accordingly.

Judge

Judge