

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

**Constitution Petition No. D- 2749 of 2021 along with
C.P Nos. D-4747, 4998, 4999, 5433, 5452, 6427 & 6518 of 2021**

Date _____ Order with signature of Judge _____

Priority.

1. For hearing of CMA No. 11882/21 (stay)
2. For hearing of main case

23.01.2024

M/s. Waseem Shaikh, Zaheem Haider holding brief for Mr. Ahmed Ali Hussain and Irfan Ali holding brief for Mr. Qazi Umair Ali, Advocates for Petitioners.

M/s. Imtiaz Ali Solangi, Faheem Raza and Ayaz Sarwar Jamali, Advocates for Respondents.

Mr. Kashif Nazeer, Assistant Attorney General.

Through these Petitions, the Petitioners have impugned two set of notices issued for audit under Section 25 of the Sales Tax Act, 1990 (“Act”) and under Section 177 of the Income Tax ordinance, 2001 (“Ordinance”). These notices have been simultaneously issued for more than one tax year or for consecutive tax years; whereas, both set of Notices have been issued without assigning any lawful reasons / justification. The very controversy as raised in these petitions in respect of above notices has already been decided by this Court in the cases of ***Wazir Ali Industries Ltd¹*** (s.25 of the Act) and ***Atlas Honda Ltd²*** (s.177 of the Ordinance) by holding that all such notices must fail and cannot be acted upon as the very selection of the taxpayers case is not in conformity with the Act and the Ordinance respectively. The judgment in ***Wazir Ali Industries*** (Supra) has allowed various petitions and has at the same time dismissed various High Court Appeal(s) of the department by upholding the case of ***Indus Motor Company Limited³*** in respect of s.25 of the Act. It is also relevant to observe that the Respondents had impugned the said judgment(s) before the Supreme Court by way of CP No.680-K of 2022 (*Commissioner Inland Revenue v Atlas Honda Ltd*) and vide order dated 15.01.2024, petition stands dismissed and leave has been refused.

In view of the above, all these Petitions are allowed for the reasons so assigned in the case of ***Wazir Ali Industries Ltd., (Supra)*** and ***Atlas Honda Ltd (supra)***.

Office is directed to place copy of this order in all connected cases.

¹ (Wazir Ali Industries Ltd. Vs. Federation of Pakistan and Others) 2023 PTD 576

² (Atlas Honda Ltd v Pakistan (2022 PTD 866)

³ (Indus Motor Company Limited v Federation of Pakistan) 2020 PTD 297

JUDGE

Ayaz

JUDGE