

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Muhammad Junaid Ghaffar &
Sana Akram Minhas JJ

High Court Appeal No.92 of 2023

(A & G Agro Industries Private Limited & Others v. Federation of Pakistan & Others)

[And connected matters enumerated in the SCHEDULE attached at the end of this judgment]

For the Appellants:

M/s Ayan Mustafa Memon, Muhammad Rashid Anwar, Ovais Ali Shah, Khalid Mehmood Siddiqui, Sofia Saeed, Navin Merchant Salim, Amin M. Bandukda, Faiz Muhammad Durrani, Naeem Suleman, Ali Abid Zuberi, Syed Mohsin Ali, Nazeer Siddiqui, Habib Kazi, Suleman Yousuf, Aijaz Ahmed, Syed Muhammad Ali Mehdi, Ali Qambar Askari, Imran Iqbal, Ghulam Muhammad, Ali Nawaz Khuhawar, Marium Riaz, Fizzah Bucha, Ayesha Sahto, Arshad Hussain Shahzad, Afaq Ahmed, Samia Faiz Durrani, Shakeel Akbar, Kashan Ahmed, Hussain Akhtar Ansari, Tauqeer Randhawa, Zohaib Hassan, Haroon Shah, Aijaz Ali Sial, Umar Sikandar, Garib Shah, Nasir Illahi Siddiqui, Saleh Muhammad Siddiqui, Jawed Qureshi, Tehmina Ashraf, Ghulam Rasool Korai, Siraj Sheikh, Zaheer-u-Din Babar Bohyo, Jawad Qureshi & Adil Saeed, Advocates

For the Respondents:

M/s Asim Iqbal, Kashif Hanif, Ameer Nausherwan Adil Memon, Furqan Ali, Barrister Ghazi Khan Khalil, Farmanullah Khan, Abdul Razak Panhwar, Syeda Mariam Mastoor, Syeda Khizra Fatima Chishti, Abdul Hakim Junejo, Syed Kumail Abbas, Sheryar Khan, Muhammad Shahid, Zafar Iqbal Arain, Shazia Aziz Khan, Sarmad Ali, Hayat Muhammad Junejo, Jahanzaib Awan & Shaista Parveen, Advocates

Federation of Pakistan:

Mr. Khaleeq Ahmed, Deputy Attorney General
Mr. G. M. Bhutto, Assistant Attorney General
Mr. Amar Saleem Butt, Manager Legal, SSGCL
Mr. Raja Love Kush, Deputy Manager Legal, SSGCL
Mr. Muhammad Ali, Acting Deputy Chief Manager Billing, SSGCL
Mr. Saeed Rizwan, Deputy Chief Manager Billing, SSGCL

Mr. S. Ali Hassan Alamdar, Deputy Manager Legal,
SSGCL
Mr. Muhammad Faisal Khan, Acting General
Manager, Legal SSGCL
Ms. Nadira Tabassum, Manager Legal, SSGCL

Date(s) of hearing: 16.8.2023, 21.8.2023, 22.8.2023, 23.8.2023,
28.8.2023, 30.8.2023, 4.9.2023, 6.9.2023,
7.9.2023, 11.9.2023, 12.9.2023 & 25.3.2024

Date of Decision: 28.3.2024

J U D G M E N T

Sana Akram Minhas, J: This single judgment decides the instant High Court Appeal No.92/2023 along with connected High Court Appeals¹ which call into question the common judgment and decree dated 18.2.2023 ("**Impugned Judgment**") passed by a learned Single Judge (Original Side) in the leading Suit No.1803/2020 ("**Suit 1803**") and other connected Suits.

2. The Appellants (who were all Plaintiffs in the Suits below) are retail consumers of natural gas supplied to them by the Sui Southern Gas Company ("**SSGC**") (which is a primary gas distribution company supplying gas in the Sindh & Baluchistan region) and, in the case of a few Appellants, by the Sui Northern Gas Company ("**SNGPL**"). Both SSGC and SNGPL are licensees of the Oil and Gas Regulatory Authority ("**OGRA**"). The Appellants operate industrial facilities dependent on natural gas and have contractual agreements for gas supply. The natural gas is employed by some Appellants in their production processes, while others utilize it for electricity generation purposes as well.

Institution of Suits by Appellants (Plaintiffs)

3. What sparked the institution of legal proceedings (i.e. Suits) by the Appellants was the issuance of Gas Tariff Notification dated 23.10.2020 ("**Impugned Notification**") by OGRA on the advice of the Federal Government, which was sought to be enforced retrospectively with effect from 1.9.2020 and which Impugned Notification was issued under section 8(3) of the *Oil & Gas Regulatory Authority Ordinance, 2002* ("**OGRA Ordinance**"). The Impugned Notification, which notified the sale price and minimum charges for natural gas for the Financial Year 2020-21 was challenged by the Appellants as it

¹ Itemized in the SCHEDULE attached at the end of this judgment

increased the tariff of natural gas for retail consumers. For General Industrial consumers the tariff was increased from Rs.1021 to Rs.1054 per MMBTU, and for Captive Power (General Industry) it was increased from Rs.1021 to Rs.1087 per MMBTU.

4. The Appellants filed separate Suits in this Court (on the Original Side) challenging various aspects of the Impugned Notification. On 20.11.2020, a learned Single Judge passed interim stay orders in leading Suit 1803 (and in connected Suits) restraining SSGC from coercive actions against the Appellants concerning bills issued pursuant to the Impugned Notification and on 30.11.2020, the Court directed the Appellants to pay bills based on the sale price prevailing before the Impugned Notification, with the differential amount to be deposited with the Nazir of the High Court.
5. A few weeks after institution of Suit 1803, SSGC (and not OGRA) submitted in Court a Notification dated 23.11.2020 containing the prescribed prices for each category of retail consumer. This Notification was issued four (4) months after OGRA's determination dated 14.7.2020, which according to the Appellants, constituted a violation of section 8 of the OGRA Ordinance.
6. The Appellants' Suits consisted of a diverse array of legal challenges where each Appellant sought to target a different facet of the Impugned Notification. Broadly, these legal challenges by the Appellants in their respective Suits centred around the following aspects of the Impugned Notification:
 - i) Vires of the Impugned Notification for General Industrial consumers and Captive Power (General Industry);
 - ii) Legality and fairness of tariff increase for General Industrial consumers and Captive Power (General Industry);
 - iii) Definition of Captive Power Plant ("**CPP**") in the Impugned Notification, arguing against its inclusion of consumers (i.e. categorization of Appellants as CPP) who:
 - a) generated electricity for self-consumption without selling it onward;
 - b) generated electricity exclusively for onward sale.
 - iv) Moratorium vide decision dated 21.1.2021 ("**Impugned Moratorium**") imposed by the Cabinet Committee on Energy on the supply of natural gas to CPPs:

- a) some Appellants contended that moratorium should not apply to industrial consumers using gas to generate electricity solely for self-consumption and not for sale;
- b) other Appellants, who were export-oriented industries and CNG stations, opposed the moratorium citing its impact on their electricity generation for self-consumption.

The Impugned Judgment

- 7. The Appellants consented to the resolution of their Suits based on the legal issues² framed on various dates in the leading Suit 1803 and, therefore, no evidence was required to be adduced.
- 8. The Impugned Judgment dismissed the Suits of the Appellants and upheld the validity of the Impugned Notification with the sole modification that it was applicable prospectively from 23.10.2020 (i.e. from date it was notified) and not retrospectively from 1.9.2020.
- 9. In upholding the Impugned Notification, the Single Judge gave his conclusions which are summarised below for convenience:

² Issues framed by Single Judge in leading Suit No.1803/2020:

- i) Whether the gas-tariff notification dated 23.10.2020 has been determined in violation of sections 7 and 8 of the OGRA Ordinance, 2002 and/or Rule 18 of the Natural Gas Tariff Rules, 2002? If so, to what effect?
- ii) Whether the increase in the sale price of gas under the gas-tariff dated 23.10.2020 is confiscatory? If so, to what effect?
- iii) Whether the provision for “development surcharge” under section 8 of the OGRA Ordinance, 2002 is without guidelines and amounts to excessive delegation of legislative power? If so, to what effect?
- iv) Whether notification dated 23.11.2020 for provisional (*category-wise*) prescribed price issued by OGRA under section 8(3) of the OGRA Ordinance, 2002 is arbitrary and/or without lawful authority?
- v) Whether the impugned gas-tariff notification dated 23.10.2020 cannot be applied retrospectively?
- vi) Where the Plaintiffs use gas for generation of electricity for self-consumption and not for its sale, whether their classification as “Captive Power (General Industry)” in the gas-tariff dated 23.10.2020 is contrary to the judgment of the Supreme Court in C.A. No.159-214 of 2018, the provisions of the Regulation of Generation, Transmission & Distribution of Electric Power Act, 1997, and/or infringes Articles 18 and 25 of the Constitution? If so, to what effect?
- vii) Whether the CCoE’s [Cabinet Committee on Energy] moratorium decision dated 21.01.2021 is applicable to the Plaintiffs who use gas for generation of electricity for self-consumption and not for its sale? If so, whether that decision is hit by the doctrine of promissory estoppel, or other-wise by the law stated in issue No.(vi) above?
- viii) Whether the Plaintiffs who are engaged in production of power for onward supply to other entities without any self-consumption can be categorized as “Captive Power Producers”?
- ix) To what relief, if any, are the Plaintiffs entitled to? and what should the decree be?

- i) OGRA's decision to withhold the prescribed price for each consumer category until the issuance of *ex post facto* Notification dated 23.11.2020 by OGRA (notifying the category-wise prescribed price of gas) was contrary to section 8(1) of the OGRA Ordinance and Rule 18(1) of the *Natural Gas Tariff Rules 2002* ("**Tariff Rules**"). However, it did not result in any injustice to the Appellants. The Impugned Notification dated 23.10.2020 and the subsequent Notification dated 23.11.2020 (which the Appellants never challenged) were saved under Rule 21 of the Tariff Rules.
- ii) The Appellants failed to demonstrate that the rise in the sale price of gas through the Impugned Notification amounted to confiscation.
- iii) The Impugned Notification would take effect from 23.10.2021 (i.e. the date it was notified) and could not be applied retroactively from 1.9.2020.
- iv) The impugned definition of CPP in the Impugned Notification was determined to be lawful. Despite some Appellants utilizing gas for electricity generation exclusively for self-consumption without selling any portion, they still fell under the CPP classification when procuring gas under a General Sales Agreement(s) ("**GSA**") for "Power Generation". This classification was not contrary to the Supreme Court's (unreported) ruling dated 10.5.2019 titled *Sui Northern Gas Pipelines Limited, Lahore v. Bulleh Shah Packaging (Pvt) Ltd*³ ("**Bulleh Shah**"), the *Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997* ("**NEPRA Act**") or the provisions or Articles 18 and 25 of the Constitution, 1973.
- v) The Appellants fell within the impugned definition of CPP given in the Impugned Notification. Additionally, the Cabinet Committee on Energy's decision on 21.1.2021 to enforce the Impugned Moratorium on natural gas supply to CPPs applied to certain Appellants (who fell within the impugned definition of CPP), irrespective of whether they utilized any portion of the electricity they produced for self-consumption.
- vi) The Federal Government's *Natural Gas Allocation & Management Policy, 2005* ("**Gas Policy**") and the GSA(s) with the Appellants (executed with SSGC) never guaranteed indefinite or uninterrupted gas supply for electricity generation; it was always subject to

³ In Civil Appeals No.159-L to 214-L of 2018 titled *Sui Northern Gas Pipelines Limited, Lahore v. Bulleh Shah Packaging (Pvt) Ltd*

conditions. The Appellants, therefore, could not claim a definitive "right" to gas for captive power use, rendering their challenge to the Impugned Moratorium, by reliance on promissory estoppel, vested rights and fundamental rights, unfounded.

- vii) Those Appellants involved in generating power exclusively for distribution to external entities, with no self-consumption, could similarly be classified as CPP, thus making them subject to the Impugned Moratorium.
- viii) The development surcharge, as outlined in section 8(5) of the OGRA Ordinance, is payable by SSGC/SNGPL to the Federal Government. This surcharge is incorporated into the sale price of gas when it surpasses the prescribed price and is regarded as part of the gas tariff, and did not amount to a tax.

Respective Arguments

- 10. The arguments on behalf of the Appellants were presented by Mr. Ayan Memon, Mr. Rashid Anwer and Mr. Ovais Ali Shah, Advocate(s). In averring that the learned Single Judge erred in dismissing the Suits, they put forward the following submissions:
 - i) Despite acknowledging that OGRA's failure to comply with section 8(1) of OGRA Ordinance would undermine the entire statutory pricing scheme for retail consumers of natural gas and its decision to delay specifying category-wise prices until after the Federal Government's advice on sale price was contrary to the law, the Impugned Judgment considered this non-compliance as a mere irregularity that did not invalidate the Impugned Notification which finding was contrary to the OGRA Ordinance and, thus, not sustainable.
 - ii) The Impugned Judgment having determined that section 8(1) of the OGRA Ordinance and Rule 18(1) of the Tariff Rules were violated, should not have upheld the Impugned Notification dated 23.10.2020 and (the unchallenged) Notification dated 23.11.2020, as doing so would set a precedent suggesting that OGRA and/or the Federal Government are not obligated to adhere to the provisions of the OGRA Ordinance, rendering it redundant.
 - iii) That the Impugned Judgment overlooked that OGRA, through its determination dated 14.7.2020, issued before the Impugned Notification dated 23.10.2020 had recommended a reduction in the

average prescribed price of natural gas. This recommendation was based on OGRA's determination that SSGC's revenue exceeded its requirement, making the subsequent increase in the sale price, as per the Impugned Notification, illegal, arbitrary, baseless, and confiscatory.

- iv) Section 8(1) of the OGRA Ordinance and Rule 18(1) of the Tariff Rules mandated OGRA to estimate the total revenue requirement for each licensee (in this case SSGC) and then inform the Federal Government about the prescribed price for each category of retail consumer. However, OGRA, in contravention of its statutory obligations under section 8(1) of the Ordinance, failed to determine the prescribed price for each category of retail consumer in its determination dated 14.7.2020. Instead, it only determined the average prescribed price for all retail consumers. This omission meant that the Federal Government could not have advised any sale price for each category of retail consumer, as the determination of the sale price relies on knowing the prescribed price for each category of retail consumer beforehand.
- v) The Impugned Judgment incorrectly ruled that the 40-day time limit specified in section 8(3) of the OGRA Ordinance (regarding the Federal Government's advice to OGRA on sale prices for each retail consumer category) was not mandatory, whereas its mandatory character had already been established in the case of **Pakistan Beverages (Pvt) Ltd v. Federation of Pakistan**⁴ ("**Pakistan Beverages**") (SBLR 2016 Sindh 1268) and upheld by a Division Bench of this Court in **Sui Southern Gas Company Ltd v. Federation of Pakistan**⁵ ("**Sui Southern**") (PLD 2017 Sindh 733).
- vi) The Impugned Judgment in ruling that the 40-day time limit in section 8(3) is not mandatory, cited a later Division Bench decision in the case of **Sindh Petroleum & CNG Dealers' Association v. Federation of Pakistan**⁶ ("**Sindh Petroleum**") (2020 CLC 851), which decision was per incuriam and also distinguishable as it pertained to a period of a Caretaker Federal Government, which lacked authority to make policy decisions.
- vii) Both the Impugned Judgment and the *Sindh Petroleum* decision incorrectly differentiated the previous ruling in *Sui Southern Gas* case, claiming it only invalidated a notification due to lack of advice from the

⁴ *Pakistan Beverages* case decided by Single Judge on 18.5.2016

⁵ *Sui Southern Gas* case (upholding *Pakistan Beverages*) decided by Division Bench on 15.8.2017

⁶ *Sindh Petroleum* case decided by Division Bench on 3.9.2019

Federal Cabinet, when in fact it upheld findings that OGRA's tariff notification for 2014-2015 was nullified for non-compliance with sections 7 and 8 of Ordinance and Tariff Rules.

- viii) The imposition of the development surcharge lacked legality, was arbitrary and without jurisdiction. The Impugned Judgment justified the imposition of the development surcharge under section 21(b) of the OGRA Ordinance which allowed the Federal Government to issue policy guidelines to OGRA when no evidence of such policy guidelines had been presented to demonstrate that the surcharge was being imposed based on an existing policy decision.
 - ix) The Impugned Judgment's conclusion that the average prescribed price for 2020-2021 determined by OGRA was higher than the previous year's, leading to an inevitable increase in the sale price for 2020 is based on a misreading and misappreciation of facts.
11. The learned Counsel for the Respondents have argued for the dismissal of the Appeals and for maintaining the Impugned Judgment on the following grounds:
- i) The Impugned Notification dated 23.10.2020 was notified by OGRA under section 8(3) of the OGRA Ordinance pursuant to the advice of the Federal Government. This advice was conveyed vide letter dated 22.10.2020 after it had been ratified by the Federal Cabinet on 6.10.2020.
 - ii) There is no penal provision under the OGRA Ordinance in the event that the Federal Government does not issue a notification within the required 40 days.
 - iii) The non-advice or delayed advice from the Federal Government as required under section 8(3) read with Rule 18(2) of the Tariff Rules does not render the Impugned Notification as illegal.
 - iv) That OGRA had acted in a timely manner and has no control over the actions of the Federal Government.
 - v) The advice, delayed by roughly 58 days and surpassing the timeline prescribed in section 8(3) of the OGRA Ordinance, was held to be directory and not mandatory in the *Sindh Petroleum* case. The earlier Division Bench judgment in the *Sui Southern Gas* case did not address the impact of this timeline, thus eliminating the possibility of any conflict between the judgments.

- vi) The determination of category-wise prescribed prices constituted merely a calculation exercise and its omission did not disadvantage the Appellants or render the proceedings invalid. In any event, OGRA later communicated the category-specific prescribed prices via Notification dated 23.11.2020.
- vii) The Appellants did not dispute the prescribed price set by OGRA but instead solely challenged the sale price of gas established by the Federal Government. The determination of gas sale prices is considered a part of government policy and is, therefore, beyond the scope of judicial intervention.
- viii) The Impugned Notification pertained to a specific period of time and, thus, was made applicable retrospectively to cover that time period. Besides, retrospectivity of a notification can only be questioned where vested rights are affected, whereas the Appellant cannot claim any vested right in the gas-tariff

Points For Determination

- 12. We have heard the arguments of the respective sides and have also considered the record. In accordance with Order 41 rule 31 CPC, the pivotal points formulated for determination herein are:
 - (i) Whether the Division Bench judgment in *Sindh Petroleum* case is per incuriam and the Impugned Judgment by following it is also flawed?
 - (ii) Whether the timeline prescribed in section 8(3) of the OGRA Ordinance is mandatory or directory?
 - (iii) Whether OGRA's failure to determine the category-wise prescribed price invalidates the Impugned Notification?
 - (iv) Whether the gas development surcharge was arbitrary and illegal?
 - (v) Whether the categorization of Appellants as captive power consumers violates the Supreme Court's ruling in *Bulleh Shah* case?

**Overview Of Gas Tariff Determination Process & Regulatory Guidelines
In Place At The Time Of Impugned Notification**

13. The gas tariff determination process is outlined in section 8 of the OGRA Ordinance and the Tariff Rules, based on the "total revenue requirement" of the licensee.
14. Rule 4(2) of the Tariff Rules mandates the licensee to submit a petition to OGRA by December 1st each year, facilitating OGRA in estimating the "Estimated Revenue Requirement" (ERR) under section 8(1) and Rule 18(1). OGRA then informs the Federal Government of the prescribed price within three days for each category of retail consumer.
15. Section 8(2) in conjunction with Rule 4(3) mandates another petition at the end of the financial year for OGRA to assess the licensee's revised total revenue requirement called "Final Revenue Requirement" (FRR) incorporating actual changes. OGRA informs the Federal Government of revised prescribed prices within three days.
16. Section 8(3) in conjunction with Rule 18(2) provides that the Federal Government has to advise OGRA of minimum charges and sale prices for each category of retail consumer within 40 days, for notification in the official Gazette.
17. If the Federal Government fails to advise the sale price within 40 days, and OGRA's prescribed price is higher than the last notified sale price for that category of consumer, section 8(4) in conjunction with Rule 18(4) require OGRA to notify the higher prescribed price as the sale price.
18. Any deficit or shortfall in the licensee's total revenue requirement for a financial year is carried forward by it in the petition for the next financial year. OGRA addresses adjustments for the previous financial year in determining the revenue requirement of the licensee for the next financial year.
19. Consumer participation is incorporated in the tariff determination scheme. Therefore, upon admitting a petition of a licensee for revenue requirement, OGRA has the authority under Rule 5(4) to issue notices, including notice by publication to all persons likely to be affected by or interested in the petition, grant intervention under Rule 7, and conduct hearings for the petition under Rule 10.
20. Tariffs determined by OGRA are subject to policy guidelines set by the Federal Government as per sections 2(xxvi), 2(xxxix) and 7(1). Section 21 grants authority to the Federal Government to issue policy guidelines.

Argument Evaluation

Per Incuriam

21. The Appellants ground their arguments in the various provisions delineated within the OGRA Ordinance (summarised in paragraphs 13 to 20 above, titled “*Overview Of Gas Tariff Determination Process & Regulatory Guidelines In Place At The Time Of Impugned Notification*”) and its accompanying Tariff Rules to bolster their submission that the Federal Government was required to render its advice within 40 days but failed to do so within the given time. Instead, the advice was sent after a delay of about 58 days whereafter the Impugned Notification dated 23.10.2020 was issued and the sale price was notified. The Appellants aver that since the advice was sent well beyond the mandatory time-limit of 40 days provided in section 8(3) of the Ordinance and Rule 18(2) of the Tariff Rules, therefore OGRA did not have jurisdiction to notify sale price of gas and issue the Impugned Notification.
22. Given that it is admitted that there was indeed a delay of 58 days in the rendering of advice by the Federal Government, this Court’s task is only confined to considering the implications of not adhering to the prescribed timelines for notifying gas tariffs. This, in turn, necessitates an evaluation whether these timelines are mandatory or directory and whether any determination made in contravention of the said timeline is invalid.
23. The question regarding the mandatory or directory character of section 8(3) of OGRA Ordinance has been the subject of discourse in two earlier decisions rendered by two different Division Benches of this Court – first being the *Sui Southern Gas* case (decided on 15.8.2017), which upheld in appeal a Single Judge’s judgment in *Pakistan Beverages* case (decided on 18.5.2016), and the second being *Sindh Petroleum* case (decided on 3.9.2019).
24. The Appellants, in support of their submission before the learned Single Judge that the timeline of 40-days in section 8(3) of the Ordinance was mandatory, relied on the *Sui Southern Gas* case while the Respondents placed reliance on *Sindh Petroleum* case to argue that the said timeline was only directory. The Appellants further argued that since the earlier Division Bench had held to the contrary in *Sui Southern Gas*, the subsequent judgment in *Sindh Petroleum* was per incuriam as the later Division Bench was bound by the earlier.
25. The Single Judge (for reasons set out in paragraph 17 of the Impugned Judgment) followed the Division Bench judgment of *Sindh Petroleum* and held

that the latter judgment was binding precedent for the proposition that the timeline in section 8(3) of the Ordinance was not mandatory and, therefore, the Impugned Notification could not be annulled for failing to adhere to the timeline in section 8(3) of the Ordinance.

26. Following their unsuccessful attempt to persuade the Single Judge, the Appellants have now reiterated their arguments anew before us with much emphasis laid on the point that the *Sindh Petroleum* decision being per incuriam was not a binding precedent and, the Single Judge erred in following it.
27. The word “per incuriam” is a Latin term which means “through lack of care” (see **Jameel Qadir v. Government of Balochistan**: 2023 SCMR 1919 in paragraph 12) or “carelessness” (see **Fasihud-Din Khan v. Government of Punjab**: 2010 SCMR 1778 in paragraph 10). A court decision is considered per incuriam when rendered in ignorance of a statute or a rule having the force of statute.
28. In **Sindh High Court Bar Association v. Federation of Pakistan** (PLD 2009 SC 879)⁷, the Supreme Court dilated upon what constitutes “per incuriam” by discussing what it entails:
 38. What is meant by giving a decision per incurium [sic] is giving a decision when a case or a statute has not been brought to the attention of the court and they have given the decision in ignorance or forgetfulness of the existence of that case or that statute or forgetfulness of some inconsistent statutory provision or of some authority binding on the court, so that in such cases some part of the decision or some step in the reasoning on which it was based was on that account demonstrably wrong
29. Taking into account the above precepts of “per incuriam” and applying them to the decision rendered in the *Sindh Petroleum* case, it can be observed that the latter decision has carefully considered the earlier decision of *Sui Southern Gas* and distinguished it (based on differences in facts or legal reasoning), explaining that the facts were sufficiently different to warrant a different outcome. Therefore, *Sindh Petroleum* case would not be considered per incuriam.
30. There is a growing inclination to employ the term “per incuriam” in a less strict manner, often invoking it more broadly or casually, even in situations where

⁷ See paragraph 38 of the supporting note of Ch. Ijaz Ahmed J

there was indeed a thoughtful deliberation (perhaps more as a criticism or to undermine a decision), than its precise legal definition warrants.

Timeline – Mandatory Or Directory

31. We now proceed to consider whether the timeline is mandatory or directory.
32. In **Reference No.1 of 1988, Made by the President of Pakistan** (PLD 1989 SC 75 at p.103), the Supreme Court ruled:

Where the provision of the Constitution or Statute relates to the performance of a public duty and where the invalidation of acts done in neglect of them would work serious general inconvenience or injustice to persons who have no control over those entrusted with the duty, without promoting the essential aims and objects of the maker thereof, such prescription are generally understood as directory only. The neglect of them may be penal but it does not affect the validity of the act done in disregard of them.

33. In **The State v. Imam Bakhsh** (2018 SCMR 2039), the Supreme Court echoed the principles laid down in the *Reference No.1* [supra]:

11. To distinguish where the directions of the legislature are imperative and where they are directory, the real question is whether a thing has been ordered by the legislature to be done and what is the consequence, if it is not done. Some rules are vital and go to the root of the matter, they cannot be broken; others are only directory and a breach of them can be overlooked provided there is substantial compliance. The duty of the court is to try to unravel the real intention of the legislature. This exercise entails carefully attending to the scheme of the Act and then highlighting the provisions that actually embody the real purpose and object of the Act. A provision in a statute is mandatory if the omission to follow it renders the proceedings to which it relates illegal and void, while a provision is directory if its observance is not necessary to the validity of the proceedings. Thus, some parts of a statute may be mandatory whilst others may be directory. It can even be the case that a certain portion of a provision, obligating something to be done, is mandatory in nature whilst another part of the same provision, is directory, owing to the guiding legislative intent behind it. Even parts of a single provision or rule may be mandatory or directory. "In each case one must look to the subject matter and consider the importance of the provision disregarded and the relation of that provision to the general object intended to be secured." Crawford [Crawford, Statutory Construction p.104] opined that "as a general rule, [those provisions that] relate to the essence of the thing to be performed or to matters of substance, are mandatory, and those which do not relate to the essence and whose compliance is merely

of convenience rather than of substance, are directory." In another context, whether a statute or rule be termed mandatory or directory would depend upon larger public interest, nicely balanced with the precious right of the common man. According to Maxwell [Maxwell, Interpretation of Statutes, 11th Ed. pp 369], "Where the prescription of statute relates to the performance of a public duty and where the invalidation of acts done in neglect of them would work serious general inconvenience or injustice to persons who have no control over those entrusted with the duty without promoting the essential aims of the legislature, such prescriptions seem to be generally understood as mere instructions for the guidance and government of those on whom the duty is imposed or in other words as directory only. The neglect of them may be penal indeed, but it does not affect the validity of the act done in disregard of them." Our Court has held while determining the status of a mandatory or directory provision that "perhaps the cleverest indicator is the object and purpose of the statute and the provision in question." And to see the "legislative intent as revealed by the examination of the whole Act.

34. In the **Province of Punjab v. Murree Brewery Company Ltd** (2021 SCMR 305 at pg.310), the Supreme Court referenced a case from the Indian jurisdiction and reproduced the following passage from it:

9. The Indian Supreme Court has also laid down certain non-exhaustive precepts in the case of *May George v. Special Tehsildar & Others* that:
 - a) While determining whether a provision is mandatory or directory, somewhat on similar lines as afore-noticed, the Court has to examine the context in which the provision is used and the purpose it seeks to achieve;
 - b) To find out the intent of the legislature, it may also be necessary to examine serious general inconveniences or injustices which may be caused to persons affected by the application of such provision;
 - c) Whether the provisions are enabling the State to do some things and/or whether they prescribe the methodology or formalities for doing certain things;
 - d) As a factor to determine legislative intent, the Court may also consider, inter alia, the nature and design of the statute and the consequences which would flow from construing it, one way or the other;
 - e) It is also permissible to examine the impact of other provisions in the same statute and the consequences of non-compliance of such provisions;

- f) Physiology of the provisions is not by itself a determinative factor. The use of the words 'shall' or 'may', respectively would ordinarily indicate imperative or directory character, but not always;
- g) The test to be applied is whether non-compliance with the provision would render the entire proceedings invalid or not;
- h) The Court has to give due weight age to whether the interpretation intended to be given by the Court would further the purpose of law or if this purpose could be defeated by terming it mandatory or otherwise.

35. The Appellants contended that an earlier Division Bench of this Court in *Sui Southern Gas* case, had already ruled that the prescribed timeline in section 8(3) of the Ordinance was mandatory. They asserted that the judgment in *Pakistan Beverages*, once upheld by the Division Bench in *Sui Southern Gas*, became a part of the Division Bench judgment on the basis of the doctrine of merger. Consequently, the pronouncements made in *Pakistan Beverages* by a Single Judge in Suit became the pronouncements of the Division Bench in *Sui Southern Gas*. However, the Single Judge in the Impugned Judgment has applied and followed another judgment passed by a subsequent Division Bench in the case of *Sindh Petroleum* which has held the aforesaid timeline to be directory. The Appellants have strenuously argued before us that out of the said two Division Bench judgments, the one being earlier in time viz. *Sui Southern Gas* case was binding on the Single Judge and also on this Court firstly on the basis of the rules of precedent and secondly the observations made in the latter judgment were obiter insofar as they pertained to the issue of the mandatory or directory nature of the statute and, therefore, not binding. It was stated that it was not permissible for the latter Division Bench judgment to sit in appeal over the earlier Division Bench judgment and if there was a difference of opinion, the matter ought to have been referred to a larger Bench.
36. In concluding that the timeline under section 8(3) of OGRA Ordinance is directory, the *Sindh Petroleum* case has relied upon and followed the Supreme Court's decision rendered in *Reference No.1 of 1988* (supra) and *State v. Imam Baksh* (supra) and has applied the criteria espoused in them (reproduced in paragraphs 32 and 33 above).
37. We have examined both the decisions of *Sui Southern Gas* and *Sindh Petroleum*. We do not intend to detract from the well-entrenched principles pertaining to legal precedents and nor do we find the necessity to embark on a determination of what constituted the rationale for decision (i.e. ratio decidendi) of the said two judgments in the present situation. Regardless of the aforesaid two Division Bench judgments of this Court, we are bound to

follow the Supreme Court and its pronouncements in *Reference No.1 of 1988* (supra) and in *State v. Imam Baksh* (supra) both of which reiterate that in situations where a statute's provision pertains to the execution of a public duty and imposes inconvenience or injustice on individuals who lack control over those tasked with the duty, without furthering the fundamental objectives intended by lawmakers, such directives are typically viewed as directory. Neglecting these directives may result in penalties, but it does not invalidate actions taken in disregard of them.

38. Applying the above yardstick to the present case, it is clear that the SSGC and OGRA lacked control over the Federal Government's actions. OGRA provided timely advice, and there is no accusation or evidence of neglect. The absence of penal consequence for timeline breaches and a provision in the shape of Rule 21 in the Tariff Rules (which serves to preserve proceedings despite any flaws or irregularities, as long as they are not deemed by the authority to have resulted in significant injustice) signify a non-mandatory nature. Thus, the specified timeline is considered directory, and delays in advice and subsequent notifications are not grounds for invalidation.

Impact Of Non-Determination Of Category-Wise Prescribed Price

39. Violation of section 8(1) of OGRA Ordinance read with Rule 18(1) of Tariff Rules is not in dispute and it is an acknowledged position that OGRA in its decision dated 14.7.2020 did not determine the prescribed price of gas for each category of retail consumer. It was one month after the sale price had been notified by the Impugned Notification that OGRA issued another Notification dated 23.11.2020 to notify the prescribed price of gas for each category of consumer.
40. Notwithstanding the above, the Appellants were nonetheless required to establish what prejudice had been caused to them by the aforesaid infraction. The Appellants did not at any time challenge OGRA's average prescribed price (of Rs.750.90 per MMBTU given in its determination dated 14.7.2020 instead of the category-wise prescribed price) and nor anything was presented by the Appellants to demonstrate that the Appellants had objected to OGRA's failure to determine the category-wise prescribed price as per Rule 21 of the Tariff Rules.
41. Thus, the Impugned Judgment rightly concludes that OGRA's failure to determine the category-wise prescribed price at the required stage was an irregularity which did not prejudice the Appellants and, therefore, did not

invalidate the Impugned Notification and the subsequent Notification dated 23.11.2020 and that both were saved under Rule 21 of the Tariff Rules.

Gas Development Surcharge

42. The Appellants have contended that the gas development surcharge under section 8 of the OGRA Ordinance was a levy and not a component of the tariff itself. They averred that the development surcharge lacked legality and jurisdiction, citing the absence of specific guidelines in the OGRA Ordinance, the Tariff Rules, and the *Natural Gas (Development Surcharge) Ordinance 1967* regarding its quantum and its criteria for calculation and imposition which amounted to excessive delegation of legislative power and which could result in the development surcharge being any amount determined arbitrarily by the Federal Government.
43. Section 8(5) mandates the payment of a development surcharge by licensees to the Federal Government for each unit of gas sold, while section 8(6)(b) defines development surcharge (as the amount payable by each licensee for natural gas) and also provides the calculation method for the development surcharge (which is based on the difference between sale price and prescribed price for each category of retail consumer if the sale price exceeds the prescribed price).
44. The Impugned Judgment determines that under section 8(6)(b) of the Ordinance, the development surcharge is built into the sale price of gas if the latter is higher than the prescribed price, and is therefore an integral part of the gas-tariff.
45. The Impugned Judgment elucidates that the reason why the OGRA Ordinance does not “fix” a criterion for determining the sale price of gas and the development surcharge, is because under said Ordinance the decision to increase or not to increase the sale price of gas is recognized as a matter of Government policy and is so expressed in section 21(2)(b) of the OGRA Ordinance. The Federal Government's decision to raise or maintain the sale price of gas beyond the prescribed rate for any fiscal period is evidently influenced by financial, economic, and political factors, considering the increasing value of a scarce natural asset and, therefore, is considered a policy matter. The jurisdiction of the Federal Government to formulate such policies under section 21(2)(b) is not under challenge in these legal cases and courts typically refrain from intervening in governmental policies unless it is proven that such policies violate fundamental right. The Single Judge has referenced the case of **Gadoon Textile Mills v. WAPDA** (1997 SCMR 641)

wherein it was held that when the surcharge imposed by WAPDA is essentially incorporated into the electricity tariff, it does not qualify as a tax.

46. We concur with the rationale put forth by the Single Judge in supporting the development surcharge.

SSGC Revenue Requirement & Gas Price Increase

47. The Appellants have contested the conclusion reached by the Single Judge (in paragraph 16 of the Impugned Judgment) that the increase in sale price was warranted by the increased revenue requirements of SSGC. OGRA's determination for the year 2019-2020 set the average prescribed price at Rs.737.65 per MMBTU, while for 2020-2021, it was set at Rs.750.90 per MMBTU, leading to a perceived increase of approximately Rs.13 per MMBTU. Consequently, the Single Judge viewed the subsequent increase in gas sale price by the Federal Government unavoidable.
48. However, the Appellants argue that the Single Judge overlooked OGRA's revised determination for 2019-2020, where the revenue requirement was adjusted to Rs.759.24 per MMBTU (from the average prescribed price of Rs.737.65 per MMBTU). Thus, the actual revenue requirement decreased from Rs.759.24 per MMBTU in the prior year (2019-2020) to Rs.750.90 per MMBTU in 2020-2021, directly contradicting the Single Judge's evaluation and challenging the inevitability of the gas price increase.
49. The Counsel representing the Respondents have brought to our attention that the average prescribed price of Rs.759.24 per MMBTU was never formally notified through an official notification. This position has not been refuted by any Appellant. Considering the price referred to is not a notified price and hence inapplicable, there is no cause for us to dwell on or to examine this argument further.

Definition Of Captive Power & Moratorium

50. The Appellants contend that manufacturers/consumers like themselves are industrial consumers and not captive power consumers. They argue that the application of the captive power rate to their gas bills is wholly illegal and flagrantly violates the ruling of the Supreme Court in *Bulleh Shah*⁸ and

⁸ The SNGPL sought a review of this judgment. The Supreme Court, while dismissing the review petitions, in its order dated 16.8.2019 clarified that:

judgment of a Single Judge of this Court in **Quetta Textile Mills v. Federation of Pakistan** (2020 CLC 1414) dated 27.02.2020.

51. The decisions in *Bulleh Shah* and *Quetta Textile Mills* are based on the old⁹ definition of Captive Power provided under the NEPRA regime (outlined in section 2(1)(k) of the Regulation 2(1)(k) in *NEPRA Licensing (Application & Modification Procedure) Regulations, 1999*) as it stood prior to 2018. However, as this definition has been repealed and replaced with a new¹⁰ one on 2.5.2018 (when section 2(iia) was inserted in the parent statute i.e. NEPRA Act), these rulings are no longer applicable or pertinent. Equally relevant to highlight is that the *Bulleh Shah* case pertained to the tariff period between 23.8.2013 and 30.6.2014, predating the aforementioned amendment.
52. Thereafter, the said Regulations 1999 were subsequently repealed and replaced on 17.6.2021 by *NEPRA Licensing (Application, Modification, Extension & Cancellation) Procedure Regulations, 2021* which also defines a CPP as in section 2(iia) of the NEPRA Act. The revised definition of captive generating plant within the latest NEPRA regulations (viz. the *NEPRA Regulations 2021*), alters the nature and meaning of captive power producers. As a result, the Appellants can no longer be classified as industrial consumers.
53. Having determined that certain Appellants indeed meet the CPP definition outlined in the Impugned Notification, the Single Judge appropriately concludes that they are subject to the Impugned Moratorium, irrespective of whether they sell any portion of the electricity they generate for self-use.
54. Further, the Impugned Judgment considers the GSAs between the Appellants and the SSGC for "Power Generation", which clearly delineate terms regarding gas supply. According to the GSA, gas supply is provided "as and when available" for specified months, while for other months, the SSGC will

"We have heard the learned Counsel for the parties at great length. No ground for review is made out. These review petitions are dismissed with a clarification that the judgment under review deals only with industrial consumers utilizing gas supplied to them with or without cogeneration of power. However, it does not apply to or cover the cases of those industrial consumers who had originally obtained licenses/connections for captive power generation".

⁹ Old definition of Captive Power Plant inserted on 9.7.2008 as Regulation 2(1)(k) in *NEPRA Licensing (Application & Modification Procedure) Regulations, 1999*:

"Captive Power Plant" means Industrial undertakings or other businesses carrying out the activity of power production for self-consumption, who intend to sell power, surplus to their requirement, to a Distribution Company or bulk power consumer.

¹⁰ New definition of Captive Generating Plant inserted on 2.5.2018 as section 2(iia) in the *Regulation of Generation, Transmission & Distribution of Electric Power Act, 1997*:

"Captive Generating Plant" means a power plant setup by any person to generate electricity primarily for his own use and includes a power plant set up by any cooperative society or association of persons for generating electricity primarily for use of members of such cooperative society or association.

disconnect the consumer's gas supply. Additionally, consumers are obligated to implement dual firing arrangements to prevent production loss when gas is unavailable. Consequently, neither the Gas Policy nor the GSA promised indefinite or uninterrupted gas supply for electricity generation; such supply was always contingent. Therefore, the Single Judge aptly concludes that the Appellants cannot assert a right to receive gas for captive power use, and reliance on the doctrine of promissory estoppel and vested rights is unfounded.

55. Besides, given the present Appeals wherein there are over a hundred Appellants, each with their distinct set of facts, evidence became essential to substantiate the elements required for application of promissory estoppel (such as promise, reliance on the promise, altered position of the promisee acting in reliance on the promise etc). Since the Appellants opted to have their cases decided solely on legal issues without recording evidence, this Court cannot consider their plea of promissory estoppel without the necessary evidence. And even if we were to disregard the necessity of evidence, except for bare arguments there were no documents from the record referenced to support the plea of promissory estoppel.

Conclusion

56. In the wake of the foregoing, the Impugned Judgment of the learned Single Judge is well-founded. Consequently, these High Court Appeals lack merit and are hereby **dismissed** without any costs awarded. The Nazir is directed to proceed further as per directions contained in paragraph 58 of the Impugned Judgment passed by the learned Single Judge.

JUDGE

JUDGE

Karachi
Dated: 28th March, 2024

SCHEDULE

SR. NO.	APPEAL NO.	NAME OF PARTIES
1.	<u>HCA 100 / 2023</u>	M/s. Kompass Pakistan (Pvt) Ltd & Others v. Federation of Pakistan & Others
2.	<u>HCA 102 / 2023</u>	M/s. Kompass Pakistan (Pvt) Ltd v. Federation of Pakistan & Others
3.	<u>HCA 103 / 2023</u>	M/s. Kompass Pakistan (Pvt) Ltd & Others v. Federation of Pakistan & Others
4.	<u>HCA 104 / 2023</u>	M/S. Shamsi Fabrics v. Federation Of Pakistan & Others
5.	<u>HCA 105 / 2023</u>	M/s. Nabi Qasim Industries (Pvt) Ltd & Others v. Federation of Pakistan & Others
6.	<u>HCA 106 / 2023</u>	Maksons Textile (Pvt) Ltd & Others v. Federation of Pakistan & Others
7.	<u>HCA 107 / 2023</u>	General Tyre & Rubber Co. Pakistan Ltd & Another v. Federation of Pakistan & Others
8.	<u>HCA 108 / 2023</u>	Valitex (Pvt) Ltd & Others v. Federation of Pakistan & Others
9.	<u>HCA 109 / 2023</u>	Al Muqet Textiles (Pvt) Ltd & Others v. Federation of Pakistan & Others
10.	<u>HCA 110 / 2023</u>	Mapak Qasim Bulkens (Pvt) Ltd & Others v. Federation of Pakistan & Others
11.	<u>HCA 111 / 2023</u>	Quetta Textile Mills Limited & Others v. Federation of Pakistan & Others
12.	<u>HCA 112 / 2023</u>	Premium Textile Mills Limited v. Federation of Pakistan & Others
13.	<u>HCA 113 / 2023</u>	Ghani Glass Limited & Another v. Federation of Pakistan & Others
14.	<u>HCA 114 / 2023</u>	Union Fabric (Pvt) Ltd & Others v. Federation of Pakistan & Others
15.	<u>HCA 116 / 2023</u>	International Industries Limited v. Federation of Pakistan & Others
16.	<u>HCA 121 / 2023</u>	A & Z Agro Industries (Pvt) Ltd & Others v. Federation of Pakistan & Others
17.	<u>HCA 123 / 2023</u>	M/s. Al Rahim Textile Industries Limited v. Federation of Pakistan & Others
18.	<u>HCA 124 / 2023</u>	M/s. Qasimi Industries (Pvt) Ltd & Others v. Federation of Pakistan & Others
19.	<u>HCA 125 / 2023</u>	M/s. M.N Textiles (Pvt) Ltd & Others v. Federation of Pakistan & Others
20.	<u>HCA 126 / 2023</u>	M/s. Dawood Meat Co. (Pvt) Ltd & Others v. Federation of Pakistan & Others
21.	<u>HCA 127 / 2023</u>	M/s. Dairyland (Pvt) Ltd & Others v. Federation of Pakistan & Others
22.	<u>HCA 128 / 2023</u>	M/s. Al Abbas Fabrics (Pvt) Ltd v. Federation of Pakistan & Others
23.	<u>HCA 129 / 2023</u>	M/s. Meskey & Femtee Trading Co. (Pvt) Ltd & Others v. Federation of Pakistan & Others
24.	<u>HCA 130 / 2023</u>	M/s. Pharma Care Pack (Pvt) Ltd & Others v. Federation of Pakistan & Others
25.	<u>HCA 131 / 2023</u>	M/s. Lotte Chemical Pakistan Limited v. Federation of Pakistan & Others
26.	<u>HCA 132 / 2023</u>	M/s. Lucky Textile Mills Ltd & Another v. Federation of Pakistan & Others
27.	<u>HCA 133 / 2023</u>	M/s. Lucky Textile Mills Ltd & Another v. Federation of Pakistan & Others

SR. NO.	APPEAL NO.	NAME OF PARTIES
28.	<u>HCA 134 / 2023</u>	Quality Dyeing & Finishing (Pvt) Ltd v. Federation of Pakistan & Others
29.	<u>HCA 135 / 2023</u>	Hamid Textile Industries v. Federation of Pakistan & Others
30.	<u>HCA 139 / 2023</u>	M/s. Stallion Textiles (Pvt) Ltd v. Federation of Pakistan & Others
31.	<u>HCA 140 / 2023</u>	M/s. Stallion Textiles (Pvt) Ltd v. Federation of Pakistan & Others
32.	<u>HCA 141 / 2023</u>	M/s. Stallion Textiles (Pvt) Ltd v. Federation of Pakistan & Others
33.	<u>HCA 142 / 2023</u>	Khas Textile Mills (Pvt) Ltd & Another v. Federation of Pakistan & Others
34.	<u>HCA 144 / 2023</u>	M/s. Afroze Textile Ind. (Pvt) Ltd v. Federation of Pakistan & Others
35.	<u>HCA 145 / 2023</u>	M/s. Al Karam Towel Ind. (Pvt) Ltd & Others v. Federation of Pakistan & Others
36.	<u>HCA 146 / 2023</u>	M/s. Siddiq Sons Denim Mills Ltd v. Federation of Pakistan & Others
37.	<u>HCA 147 / 2023</u>	M/s. Artistic Garments Industries v. Federation of Pakistan & Others
38.	<u>HCA 148 / 2023</u>	Feroze 1888 Mills Ltd v. Federation of Pakistan & Others
39.	<u>HCA 149 / 2023</u>	Pearl Fabrics Co. & Others v. Federation of Pakistan & Others
40.	<u>HCA 153 / 2023</u>	M/s. Pakistan Oil Mills (Pvt) Ltd v. Federation of Pakistan & Others
41.	<u>HCA 154 / 2023</u>	M/s. Decent Packages (Pvt) Ltd v. Federation of Pakistan & Others
42.	<u>HCA 155 / 2023</u>	M/s. Classic Denim Mills Ltd & Others v. Federation of Pakistan & Others
43.	<u>HCA 156 / 2023</u>	M/s. United Gypsum (Pvt) Ltd & Others v. Federation of Pakistan & Others
44.	<u>HCA 157 / 2023</u>	M/s. Ellcot Spinning Mills Ltd & Others v. Federation of Pakistan & Others
45.	<u>HCA 159 / 2023</u>	Naveena Industries Limited v. Federation of Pakistan & Others
46.	<u>HCA 160 / 2023</u>	M/s. Rasheed Enterprises & Others v. Federation of Pakistan & Others
47.	<u>HCA 166 / 2023</u>	Bajwa Spinning Mills (Pvt) Ltd v. Federation of Pakistan & Others
48.	<u>HCA 168 / 2023</u>	Faisal Spinning Mills Ltd. v. Federation of Pakistan & Others
49.	<u>HCA 169 / 2023</u>	Artistic Milliners (Pvt) Ltd v. Federation of Pakistan & Others
50.	<u>HCA 170 / 2023</u>	Amer Cotton Mills (Pvt) Ltd. & Another v. Federation of Pakistan & Others
51.	<u>HCA 171 / 2023</u>	Idrees Textile Mills Ltd. V. Federation of Pakistan & Others
52.	<u>HCA 172 / 2023</u>	Sapphire Fibres Ltd. & another v. Federation of Pakistan & Others
53.	<u>HCA 173 / 2023</u>	Artistic Milliners (Pvt) Ltd. v. Federation of Pakistan & Others
54.	<u>HCA 174 / 2023</u>	Anoud Power Generation Ltd. v. Federation of Pakistan & Others
55.	<u>HCA 175 / 2023</u>	Khas Textile Mills (Pvt) Ltd. v. Federation of Pakistan & Others

SR. NO.	APPEAL NO.	NAME OF PARTIES
56.	<u>HCA 176 / 2023</u>	Nadeem Textile Mills Ltd. & Others v. Federation of Pakistan & Others
57.	<u>HCA 177 / 2023</u>	National Refinery Limited v. Federation of Pakistan & Others
58.	<u>HCA 178 / 2023</u>	Bhanero Energy Limited & Others v. Federation of Pakistan & Others
59.	<u>HCA 179 / 2023</u>	M/s. Amin Textile Mills (Pvt) Ltd. & Others v. Federation of Pakistan & Others
60.	<u>HCA 180 / 2023</u>	Ihsan Sons (Pvt) Ltd. v. Federation of Pakistan & Others
61.	<u>HCA 181 / 2023</u>	M/s. Bikiya Industries (Pvt) Ltd. v. Federation of Pakistan & Others
62.	<u>HCA 182 / 2023</u>	M/s. Lucky Industries & Others v. Federation of Pakistan & Others
63.	<u>HCA 183 / 2023</u>	M/s. Decent Packages (Pvt) Ltd v. Federation of Pakistan & Others
64.	<u>HCA 193 / 2023</u>	Agar Textiles (Pvt) Ltd. v. Federation of Pakistan & Others
65.	<u>HCA 194 / 2023</u>	Saya Weaving Mills (Pvt) Ltd. v. Federation of Pakistan & Others
66.	<u>HCA 198 / 2023</u>	M/s. Any Textile Mills (Pvt) Ltd v. Federation of Pakistan & Others
67.	<u>HCA 199 / 2023</u>	Pakistan Cables Ltd v. The Federation of Pakistan
68.	<u>HCA 200 / 2023</u>	Nadeem Textile Mills Limited v. Federation of Pakistan & Others
69.	<u>HCA 202 / 2023</u>	M/s. Kings Apparel & Others v. Federation of Pakistan & Others
70.	<u>HCA 203 / 2023</u>	M/s. ASCO International (Pvt) Ltd. v. Federation of Pakistan & Others
71.	<u>HCA 206 / 2023</u>	Pakistan Beverages Ltd. v. Federation of Pakistan & Others
72.	<u>HCA 207 / 2023</u>	Yassir Fruit Juices Pvt. Ltd. v. Federation of Pakistan & Others
73.	<u>HCA 208 / 2023</u>	Pakola Products Ltd. v. Federation of Pakistan & Others
74.	<u>HCA 209 / 2023</u>	M/s. The Times Press (Pvt) Ltd. v. Federation of Pakistan & Others
75.	<u>HCA 210 / 2023</u>	M/s. Al Noor Oil Extraction Plant (Pvt) Ltd & Others v. Federation of Pakistan & Others
76.	<u>HCA 211 / 2023</u>	Pearl Embroidery v. Federation of Pakistan & Others
77.	<u>HCA 212 / 2023</u>	MATCO Foods Ltd. v. Federation of Pakistan & Others
78.	<u>HCA 213 / 2023</u>	Genix Pharma (Pvt) Ltd v. The Federation of Pakistan & Others
79.	<u>HCA 216 / 2023</u>	M/s Hub Poly Packages (Pvt) Ltd v. Federation of Pakistan & Others
80.	<u>HCA 217 / 2023</u>	M/s Novatex Limited v. Federation of Pakistan & Others
81.	<u>HCA 218 / 2023</u>	M/s Burraq Engineering (Pvt) Ltd & Another v. Federation of Pakistan & Others
82.	<u>HCA 220 / 2023</u>	M/s. Matco Foods Limited v. Federation of Pakistan & Others
83.	<u>HCA 222 / 2023</u>	M/s. Garibsons (Pvt) Ltd & Others v. Federation of Pakistan & Others
84.	<u>HCA 232 / 2023</u>	Azam Textile Mills Limited & Others v. Federation of Pakistan & Others
85.	<u>HCA 233 / 2023</u>	Shafi Spinning Mills Limited v. Federation of Pakistan & Others

SR. NO.	APPEAL NO.	NAME OF PARTIES
86.	<u>HCA 70 / 2023</u>	Lucky Tex Pakistan (Pvt) Ltd v. Federation of Pakistan & Others
87.	<u>HCA 71 / 2023</u>	Shabbir Tiles & Ceramic Ltd v. Federation of Pakistan & Others
88.	<u>HCA 75 / 2023</u>	M/s. Amin Textile Mills (Pvt) Ltd & Others v. Federation of Pakistan & Others
89.	<u>HCA 76 / 2023</u>	Aquagen (Pvt) Ltd & Another v. Federation of Pakistan & Others
90.	<u>HCA 77 / 2023</u>	Artistic Denim Mills Limited & Another v. Federation of Pakistan & Others
91.	<u>HCA 78 / 2023</u>	Metco Textile (Pvt) Ltd v. Federation of Pakistan & Others
92.	<u>HCA 81 / 2023</u>	Indus Dyeing & Manufacturing Co. Ltd & Others v. Federation of Pakistan & Others
93.	<u>HCA 82 / 2023</u>	M/s. Shabbir Tiles & Ceramics Ltd v. Federation of Pakistan & Others
94.	<u>HCA 83 / 2023</u>	M/s. Popular Food Industries (Pvt) Ltd & Others v. Federation of Pakistan & Others
95.	<u>HCA 84 / 2023</u>	Ideas (Pvt) Ltd & Others v. Federation of Pakistan & Others
96.	<u>HCA 85 / 2023</u>	Olympia Power Generation (Pvt) Ltd & Others v. Federation of Pakistan & Others
97.	<u>HCA 86 / 2023</u>	Artistic Denim Mills Limited v. Federation of Pakistan & Others
98.	<u>HCA 87 / 2023</u>	Latif Textile Mills (Pvt) Ltd & Others v. Federation of Pakistan & Others
99.	<u>HCA 88 / 2023</u>	Nova Leathers (Pvt) Ltd & Others v. Federation of Pakistan & Others
100.	<u>HCA 89 / 2023</u>	Crescent Fiber Limited & Others v. Federation of Pakistan & Others
101.	<u>HCA 90 / 2023</u>	M/s Hantex & Others v. Federation of Pakistan & Others
102.	<u>HCA 91 / 2023</u>	Al Muqet Textile (Pvt) Ltd & Others v. Federation of Pakistan & Others
103.	<u>HCA 94 / 2023</u>	M/s. Classic Denim Mills (Pvt) Ltd v. Federation of Pakistan & Others
104.	<u>HCA 95 / 2023</u>	M/s. Classic Denim Mills (Pvt) Ltd & Another v. Federation of Pakistan & Others
105.	<u>HCA 96 / 2023</u>	M/s. Fateh Textile Mills Ltd & Others v. Federation of Pakistan & Others
106.	<u>HCA 97 / 2023</u>	M/s. Nagina Cotton Mills Limited & Others v. Federation of Pakistan & Others
107.	<u>HCA 98 / 2023</u>	M/s. Unity Foods Limited v. Federation of Pakistan & Others
108.	<u>HCA 99 / 2023</u>	M/s. Nagina Cotton Mills Limited & Others v. Federation of Pakistan & Others
