

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Constitution Petition No. D- 239 of 2023

Date	Order with signature of Judge
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- Priority.**
- 1) For order on CMA No. 3141/25 (U/A)
  - 2) For hearing of Misc. No. 928/23.
  - 3) For hearing of main case.

**05.05.2025.**

Mr. Muhammad Aleem & Muhammad Daud Narejo Advocates for  
Petitioner.  
Mr. Hassan Ali, Advocate for State Bank of Pakistan.  
Mr. Irfanullah Khan, Advocate for Respondent.  
Ms. Mehreen Ibrahim, Assistant Attorney General.  
Mr. Naeem Talpur, Additional Advocate General.

In this petition, the Petitioner has impugned order dated 21.12.2022 passed by the Foreign Exchange Regulation Appellate Board, whereby, the appeal of the Petitioner, against an order of the Adjudicating Officer dated 13.07.2021, was dismissed for non-compliance of Section 23C(4) of the Foreign Exchange Regulation Act, 1947. It appears that this issue has already been decided by this Court<sup>1</sup> (***declaring the provision as intra vires***) as well as by the learned Lahore High Court<sup>2</sup> (***declaring the provision as ultra vires***). The judgment of the Lahore High Court ended up before the Supreme Court<sup>3</sup> and the Honorable Supreme Court has maintained the view of learned Lahore High Court; whereby, this provision was declared ultra vires to the Constitution. It has been held by the Supreme Court that directing a party to deposit the total amount of the subject matter, before admission of his appeal would be unreasonable, resulting into preventing that party from exercising his

<sup>1</sup> Order dated 21.06.2024 in CP No.D-3066 of 2024 (Pak Terry Mills (Pvt) Ltd v Federation of Pakistan & Others)  
<sup>2</sup> Order dated 01.02.2023 in WP No.36748 of 2022  
<sup>3</sup> vide Order dated 20.03.2025 passed in Civil Petition No. 1477 of 2023 (Senior Joint Director Foreign Exchange Operations Division SBP vs. Federation of Pakistan and others

right of appeal, which violates his fundamental right of fair trial and due process, guaranteed by Article 10A of the Constitution.

In view of such position, order dated 21.12.2022 stands set aside. Consequently, thereof, the Appeal of the Petitioner, shall be deemed to be pending before the Appellate Forum and be decided in accordance with law on its own merits without requiring any payment of the adjudged amount after affording opportunity of hearing to all concerned. Let copy of this order be issued to the Foreign Exchange Appellate Board, State Bank of Pakistan for compliance.

***Acting Chief Justice***

***Judge***

Ayaz P.S.