

Tax Newsletter

Daily Alert Service

Huzaima & Ikram
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Muhammad Arif Khan

v.

Collector Customs Model Customs Collectorate (Enforcement & Compliance) Customs House Peshawar and another

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**BALANCING THE BOOKS:
HOW A PAKISTANI JUDGMENT
RECONCILES TAX LAW WITH ECONOMIC GOALS**

by
Sharjeel Tareef *

In an increasingly interconnected global economy, tax jurisprudence often presents a complex tapestry of national interests, corporate responsibilities, and the broader pursuit of economic justice. A recent judgment from the Lahore High Court, concerning the interpretation of Section 65A(b) of Pakistan’s Income Tax Ordinance, 2001, offers a compelling case study in judicial philosophy and its far-reaching implications. While seemingly focused on a specific tax credit, the ruling, involving the **Commissioner Inland Revenue versus M/s. Coca-Cola Export Corporation**, transcends its immediate context to illuminate fundamental principles of statutory interpretation, legislative intent, and the judiciary’s role in fostering a fair economic environment.

At the heart of the matter lay a dispute over a tax credit designed to incentivize documented transactions within the economy. Section 65A(b) stipulates a tax credit for businesses whose “sales are made to a registered person who is a registered person on the date of sale,” with a crucial threshold: 90% of total sales must meet this criterion. The Appellate Tribunal Inland Revenue had previously adopted a stringent interpretation, arguing that only sales made *directly* to registered persons counted towards this 90% threshold, effectively excluding any sales made to unregistered entities, regardless of their proportion. This narrow view led to the denial of the tax credit to Coca-Cola Export Corporation, as approximately 14.68% of their sales were channeled through an unregistered entity, Habib Gohar, even though 85.32% were to registered parties. The Revenue’s argument rested on the premise that the legislative intent was to disincentivize dealings with unregistered persons altogether, making any such interaction disqualifying.

However, the Lahore High Court, in its characteristic pursuit of equitable justice, embarked on a more holistic and purposive interpretation. The judge’s reasoning meticulously deconstructed the Appellate Tribunal’s stance, identifying its foundational flaw in an overly literal and restrictive reading of the statute. The core *ratio decidendi* of the High Court’s judgment can be distilled to this: the 90% threshold in Section

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65A(b) pertains to the *proportion* of sales made to registered persons out of the *total* sales, not an absolute exclusion of any sales to unregistered entities. The court underscored that the purpose of Section 65A is to encourage the formalization of the economy by rewarding businesses that predominantly engage with registered suppliers and customers, thereby expanding the tax net. It is a provision designed to incentivize a *preponderance* of documented transactions, not to punish entities for minor deviations or for the mere existence of unregistered links in the supply chain, particularly when those links may be unavoidable or historical.

Behind this legal point lies a significant logic rooted in both economic reality and legislative philosophy. Legislatures often craft incentives with a specific policy goal in mind. In this case, the goal is to enhance revenue collection and combat the informal economy. A complete disqualification based on *any* sales to unregistered persons would create an impossibly high bar for many businesses, especially those operating in developing economies where informal sectors are substantial and often deeply integrated into supply chains. Such an interpretation would render the incentive ineffective, penalizing businesses striving for compliance rather than encouraging broader participation in the formal economy. The court recognized that a pragmatic approach was necessary – one that upheld the spirit of the law (promoting documentation) without creating an unduly burdensome and ultimately counterproductive absolute barrier.

The judicial philosophy evident in this judgment leans heavily towards a “purposive approach” to statutory interpretation, a principle widely recognized in international jurisprudence. This approach contrasts with a strict literalism that might adhere rigidly to the words of the statute without considering the legislative intent or the practical consequences. The judge consciously moved beyond the “plain meaning” argument to explore the “mischief” the legislation sought to remedy and the objective it aimed to achieve. This is a hallmark of progressive jurisprudence, where judges act not merely as automatons applying rules, but as guardians of justice, ensuring that laws serve their intended purpose and promote societal good. The judgment also subtly reflects a concern for proportionality – the penalty (loss of tax credit) should be proportionate to the perceived non-compliance. Disqualifying a business that has achieved 85% documented sales due to a small percentage of unregistered sales would be disproportionate and economically illogical.

The broader impact of this judgment is multifaceted. **On jurisprudence**, it reinforces the principle of purposive interpretation, providing a strong precedent for future cases where literal readings might lead to absurd or

unjust outcomes. It encourages a more nuanced understanding of tax laws, moving away from rigid interpretations that can stifle economic activity. This aligns with global trends in judicial review, where courts increasingly look beyond the text to the context and goals of legislation.

For legislation, this ruling provides invaluable feedback. It highlights the potential for ambiguity in drafting and encourages lawmakers to ensure that their provisions clearly reflect their intended policy goals. While the court clarified the existing law, it also implicitly urges the legislature to consider the practical implications of thresholds and disqualification clauses, potentially prompting future amendments to enhance clarity and fairness.

Societally and economically, the judgment offers a measure of relief and predictability for businesses operating in Pakistan. It signals that genuine efforts towards formalization will be recognized and rewarded, rather than being derailed by minor technicalities. For multinational corporations like Coca-Cola, such clarity in tax policy is crucial for investment decisions and operational planning. It fosters a more stable and predictable regulatory environment, which is vital for attracting and retaining foreign direct investment. Furthermore, by making the tax credit more attainable, it indirectly encourages more businesses to strive for the 90% threshold, ultimately contributing to a larger and more documented tax base. The ruling subtly acknowledges the complexities of evolving economies, where formal and informal sectors often intertwine, and offers a path for gradual transition rather than abrupt exclusion.

The Lahore High Court's judgment on Section 65A(b) of the Income Tax Ordinance is far more than a technical tax ruling. It stands as a testament to thoughtful judicial reasoning and a commitment to understanding the spirit, not just the letter, of the law. By firmly establishing a purposive interpretation, the court has not only provided clarity to businesses but also reinforced fundamental principles of justice, proportionality, and economic realism. This decision serves as an important reminder, both nationally and internationally, that effective jurisprudence is a dynamic process, one that continuously evaluates and adapts legal principles to serve the evolving needs of society and promote a more equitable economic landscape.

SHABBAR ZAIDI PROPOSES SHIFTING PAKISTAN'S CAPITAL FROM ISLAMABAD TO LAHORE

Former FBR chairman Shabbar Zaidi has proposed that the federal capital be shifted from Islamabad to Lahore for better governance, as reported by national media on Monday.

Speaking at the launch ceremony of his autobiography “32 Onkar Road” in a local auditorium in Lahore, Shabbar Zaidi admitted that he was unable to bring reforms to the FBR.

Zaidi also called for a ban on the politics of religious parties, saying Lahore was once a city of communists and nationalists but was destroyed by eliminating liberal elements.

The former FBR chairman reiterated his proposal that the capital should be moved from Islamabad to Lahore.

At the event, speakers described Shabbar Zaidi’s autobiography as the work of an honest, outspoken, and straightforward man. They said Zaidi’s book highlights the flaws in the country’s economic and social structure.

Veteran journalist Hussain Naqi remarked that the possibility of democracy in Pakistan has ended.

Former State Bank governor and former acting Punjab finance minister Shahid Hafeez Kardar said the IMF is the root cause of Pakistan’s problems and that the FBR’s structure needs reform. – [Courtesy mmnews.tv](http://mmnews.tv)

FBR HAS FAILED TO IMPLEMENT ATIR ORDER

The Federal Board of Revenue (FBR) has failed to implement a key direction issued by the Appellate Tribunal Inland Revenue (ATIR), which required the FBR to issue instructions to all field formations to promptly implement ATIR’s orders within two months.

The FBR is bound to issue instructions to all field formations to strictly observe the mandate of section 124(4) of the Income Tax Ordinance, 2001. The said provision mandates implementation of the ATIR’s orders within two months.

In a recent order of the ATIR, the tribunal had categorically directed that any deliberate or willful non-compliance of its orders in the future would attract serious consequences, including possible referral of such cases to the Federal Tax Ombudsman for appropriate action.

When contacted, tax lawyer Waheed Shahzad Butt who represented this case told this correspondent that tax authorities are willfully defying the lawful directions of the ATIR merely to fabricate performance figures and project inflated tax demand data, which in reality is flimsy and unsustainable.

Continued disregard of binding judicial and quasi-judicial directions not only undermines the rule of law but also reflects systemic administrative malaise within the FBR.

The ATIR order states: “Department was under a statutory obligation to give effect to the order in terms of section 124(4) in prescribed time frame. Any omission or delay in implementing a judicial pronouncement not only constitutes maladministration but also erodes the rule of law and undermines public trust in the tax administration. Once an order attains finality, it is binding upon the Department and must be implemented, unless expressly suspended or set aside by a competent higher forum.

Any departure from or delay in implementation is legally impermissible and may render the concerned officials liable to appropriate proceedings under law. Any deliberate or willful non-compliance in the future shall attract consequences in accordance with law, including possible referral to the FTO under section 9(1) of the FTO Ordinance.”

The chairman FBR is advised to issue necessary instructions to all field formations to strictly observe the mandate of section 124(4) in order to uphold institutional credibility and avoid needless litigation, the ATIR ordered. – Courtesy.brecorder.com

FBR UNCOVERS HIDDEN ASSETS OF HIGH-PROFILE TAXPAYERS

The Federal Board of Revenue (FBR) has launched a crackdown on high-profile tax evasion cases through its Lifestyle Monitoring Cell. The cell has identified more than 20 individuals with extravagant lifestyles, luxury vehicles, and frequent international travels, while declaring minimal income and assets in their tax returns.

The Lifestyle Monitoring Cell was set up under the Directorate of Intelligence and Investigation (I&I) of Inland Revenue. Its purpose is to scrutinize taxpayers who publicly display wealth on social media but contribute very little to the national exchequer. Intelligence reports have been shared with Regional Taxpayer Offices (RTOs) across Pakistan, and legal proceedings have begun for the recovery of undeclared taxes.

In one case, an individual from southern Punjab owns 19 high-end vehicles worth around Rs624 million. However, in his tax returns, he declared only a single vehicle worth one million rupees in 2020. Between 2020 and 2025, he undertook multiple international trips, including visits to the UAE, Spain, the Netherlands, Turkey, the UK, the Maldives, Croatia, Italy, Portugal, France, Belgium, Switzerland, Sweden, Denmark, Greece, and Saudi Arabia. Despite this, his declared income and net assets remained far below his observable spending and lifestyle.

Another case involves a taxpayer from a political family in southern Punjab. Investigations show concealed assets of Rs180.5 million. These include luxury vehicles such as a Lexus LX 570, Toyota Fortuner Legender, BMW i7, and Suzuki Hayabusa. Only a small portion of these assets was declared in the tax returns, indicating deliberate concealment and tax evasion.

A third case reveals a taxpayer owning 19 vehicles, including sports cars, SUVs, motorcycles, and ATVs, with an estimated value of Rs624 million. The collection includes vehicles such as a Chevrolet Corvette C8, Toyota Land Cruiser series, Range Rover, Audi Q7, Ford F-150 Raptor, Harley-Davidson Pan America, and Yamaha Raptor ATV. None of these assets were declared in tax filings.

The FBR has stated that investigations are ongoing. Authorities are reviewing the sources of funds for these assets and preparing legal actions against potential tax-dodgers. The Lifestyle Monitoring Cell aims to ensure that taxpayers with visible wealth comply with tax laws.

Officials said that this initiative is part of FBR's broader effort to close loopholes, improve revenue collection, and promote transparency. By targeting high-value cases of undisclosed assets and luxury lifestyles, the government aims to send a strong message against tax evasion. – [Courtesy minutemirror.com.pk](https://www.minutemirror.com.pk)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Yahya Afridi, HCJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Miangul Hassan Aurangzeb

Civil Petition No. 3755 of 2022

(Against Judgment dated 15.09.2022 of
Peshawar High Court, Peshawar passed in
W.P No.19-P of 2022)

Muhammad Arif Khan. ... *Petitioner*

Versus

*Collector Customs Model Customs Collectorate
(Enforcement & Compliance) Customs House,
Jamrud, Road, Peshawar and another.* ... *Respondents*

For the Petitioner: Mr. Farhat Nawaz Lodhi, ASC.
Mr. Syed Rifaqat Hussain Shah, AOR.

For the Respondents: Mr. Abdul Rauf Rohaila, Sr. ASC.
Mr. Usman Aziz, Dy. Collector, Customs
(through video-link from Peshawar)

For the Department: Mr. Saeed Akram, Member (Legal)
Customs
Mr. Ashraf Ali, Chief Legal, Customs.
Mr. Amanat Kha, ADC.
Mr. Aftab Alam, Inspector.

Date of Hearing: 25.09.2025.

ORDER

Muhammad Shafi Siddiqui, J. We have heard the learned counsel for the parties and perused the material available on record.

2. The record reflects that the petitioner presented his claim for recovery of sale proceeds of the Black Tea on 22.01.2021 with the Collector of Customs Preventive, MCC, Peshawar. In the said letter the petitioner claimed the sale proceeds of the "Tea" in question as under:

Therefore, the Customs Staff seized the alleged foreign origin smuggled black tea alongwith the said vehicle in terms of Section 168 of the Customs, Act 1969 for offending the provisions of Sections 2(s), 16 & 157 of the ibid Act read with Section 3(1) of the Imports and Exports (Control) Act, 1950 punishable under Section 156(1)(8)(89)of the Customs Act, 1969 read with Section 3(3) of the Imports and Exports (Control) Act, 1950. After completion of necessary formalities, the case was placed before the Deputy Collector Customs, Anti-Smuggling Division, Customs Peshawar, who vide Order-in-Original No.123 of 2011 dated 19.08.2011 confiscated the seized black tea and released the vehicle on Bank Guarantee LG No. 20/2011 dated 09.03.2011 of Rs. 1,30,000/-

3. The sale proceeds were being claimed in terms of section 169(5) of the Customs Act, 1969 (hereinafter referred to as "the Act") which provides that if on such adjudication or in an appeal or proceedings in court, the goods sold is found not to have been liable to such confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201 of the Act, shall be handed over to the owner. The petitioner is yet to obtain such declaration or findings of the court on adjudication and has directly jumped to claim the sale proceeds of confiscated goods. The judgment passed in reference jurisdiction (Custom reference No. 27-P of 2018) is the conclusive test as to the seizure and confiscation of the goods. Such findings were challenged before this Court in Civil Appeal No.176 of 2020 which was dismissed.

4. Thus, in order to have the benefit of the sale proceeds under the Customs Act, the declaration of being an owner of wrongly seized/confiscated goods is inevitable. This could only be passed on to the owner if the owner, was able to establish either on adjudication, appeal or proceedings in court that the goods sold are not liable to such confiscation.

5. This being the situation the CPLA merits no consideration is, accordingly, dismissed and leave to appeal is refused.

Chief Justice

Judge

Judge

Islamabad:
25.09.2025

Approved for Reporting
(Asif Bhatti)