

[Sindh High Court]

Before Aqeel Ahmed Abbasi and Zulfiqar Ahmed Khan, JJ

AL RAZZAQ FIBRES (PVT.) LTD. through authorized representative and others

Versus

FEDERATION OF PAKISTAN through Secretary, Ministry of Finance and others

Constitutional Petition No.D-1704 of 2018 (and others connected petitions), decided on 18th January, 2021.

Sales Tax Act (VII of 1990)---

---Ss.3(2)(b), 4(c) & 74-A--- Notifications SRO No.1125(I)/2011 dated 31-12-2011--SRO No.584(I)/2017 dated 1-7-2017---Notification, vires of--- Increase in tax--- Phrase 'Board with the approval of Federal Minister-in-Charge'--- Scope--- Petitioners were tax-payers and their grievance was that power of Federal Government could not be substituted to Federal Minister-in-Charge for the purposes of tax collection--- Validity--- Amendment in S.3(2)(b) read with S.4(c) of Sales Tax Act, 1990, through Finance Act, 2017 to the extent of substituting the words "Board with the approval of Federal Minister-in-Charge" was ultra vires the Constitution, contrary to law and of no legal effect---Notification SRO No.584(I)/2017, dated 1-7-2017 issued in terms of and in purported exercise of powers conferred by amendment in S.3(2)(b) & S.4(c) of Sales Tax Act, 1990, particularly adding of a new condition xiv to notification SRO No.1125(I)/2011 dated 31-12-2011, was ultra vires the Constitution and was of no legal effect--- High Court restrained the authorities from demanding any duty in terms of notification SRO No.584(I)/2017 dated 1-7-2017 from petitioners--- Provision of S.74-A of Sales Tax Act, 1990, had no relevancy to the matter as it was to seek validation of acts of 'Federal Government' and not that of "Board with the approval of Federal Minister-in-Charge"--- Constitutional petition was allowed accordingly.

Mustafa Impex, Karachi and others v. The Government of Pakistan and others PLD 2016 SC 808; Premier Systems (Pvt.) Ltd. v. Federation of Pakistan and others 2018 PTD 861; PMDC v. Federation of Pakistan and others 2018 SCMR 1956 and Messrs TU Plastic Industries Company (Pvt.) Ltd. v. Federation of Pakistan and others 2019 PTD 1542 rel.

Messrs Elahi Cotton Mills Ltd. and others v. Federation of Pakistan and others PLD 1997 SC 582; Ali Haider Khan v. Province of Punjab through Chief Secretary and 7 others 2016 PTD 2525; Muhammad Khalid Qureshi 2017 PTD 805 and Tandliwala Sugar Mills Ltd.'s case 2001 SCMR 1398 ref.

Abdul Moiz Jaferi, Sofia Saeed, Amjad Javaid Hashmi, Arshad Shahzad, Qazi Umair Ali, Waseem Shaikh, Syed Mohsin Ali, Asad Raza, Syed Irshad-ur-Rehman and Umerzad Gul for Petitioners.

Muhammad Aqeel Qureshi, Khalid Rajpar, Ameer Bukhsh Metlo, Pervaiz Ahmed Memon and Irfan Mir Halepoto for Respondents.

Shakeel Ahmed along with Ms. Durdana Tanvir for the Respondents (in C.Ps.Nos.D-8855 and D-8856 of 2018).

Muhammad Aminullah Siddiqui, Asst. Attorney General for Respondents.

Dates of hearing: 20th August and 23rd November, 2020.

JUDGMENT

AQEEL AHMED ABBASI, J.---Through above captioned Constitutional Petitions, petitioners have mainly challenged the vires of SRO 584(I)/2017 dated 01.07.2017 as well as vires of the amendment in Section 3(2)(b) of the Sales Tax Act, 1990, under which the said SRO was notified brought about through Finance Act, 2017, for being unconstitutional and an attempt to circumvent and defeat the spirit of law

declared by the Hon'ble Supreme Court in the case of Mustafa Impex, Karachi and others v. The Government of Pakistan and others (PLD 2016 SC 808), whereas, following relief has been sought by the petitioners through above petitions:-

- I. Declare that subsection (2)(b) of Section 3 of the Sales Tax Act, 1990, is ultra vires the Constitution of Pakistan, 1973, as it purports to confer the legislative power of levy of further sales tax on the executive functionaries which could only be exercised by the Parliament under the Constitution of Pakistan, 1973.
- II. Declare that subsection (2)(b) of Section 3 of the Sales Tax Act, 1990 is ultra vires of the Constitution of Pakistan, 1973, as it purports to confer the power to levy further sales tax upon the respondent No.2, with approval of the Federal Minister-in-Charge.
- III. Declare that under Article 90 of the Constitution of Pakistan, the executive authority of the Federation could only be exercised by the Federal Government acting through the Cabinet.
- IV. Declare that the impugned Notification, bearing S.R.O. No.584(I)/2017 dated 01.07.2017, is ultra vires of the provisions of the Constitution of Pakistan, 1973, and quash the same.
- V. Declare that the Respondents are not liable to take any action pursuant to the S.R.O. No.584(I)/2017 dated 01.07.2017, including but not limited to levy, imposition, collection and/or recovery of sales tax on the supply of goods to unregistered persons by the petitioners.
- VI. Direct the Respondents to refund any amounts of sales tax collected from the petitioners pursuant to S.R.O. No.584(I)/2017 dated 01.07.2017.
- VII. Restrain the Respondents and their officers from taking any action against the Petitioners for recovery of sales tax under S.R.O. No.584(I)/2017 dated 01.07.2017, including but not limited to levy, imposition, and recovery of sales tax on sales to unregistered persons and/or assessment of sales returns of the Petitioners on the basis thereof.
- VIII. Grant any other relief deemed fit in the circumstances of the case.
- IX. Grant an order as to costs incurred by the Petitioners in the instant petition.

2. Briefly the facts as stated in the aforesaid petitions relevant for the purpose of deciding the legal issue are that petitioners are engaged in the business of weaving yarn into cotton fabric and fabric manufactured by the petitioners is then sold onward to be improved upon further by dyeing and treating businesses in a process that ultimately leads to usable and wearable cotton products. The petitioners are however, aggrieved by the action of respondents Nos.1 and 2, who have issued SRO 584(I)/2017 dated 01.07.2017 in purported exercise of power under Sections 3(1), 3(2)(b), 3(6), 4(c) and 4(d) read with Section 8(1)(b) and Section 71 of the Sales Tax Act, 1990, whereby, an amendment has been made to the Sales Tax regime brought about by the Federal Government vide SRO 1125(I)/2011 for a certain classes and industries of goods including Textile, whereas, the said SRO was amended from time to time including 491(I)/2016 dated 30.06.2016, the two earlier SROs issued by the Federal Government brought about zero-rate or 5% rate regime for the goods mentioned therein, according to which, the petitioners goods were fallen under the zero rate regime. According to petitioners, the impugned Notification, inter alia, added a new condition to 1125(I)/2011 regime, numbered as condition (xiv), which reads as follows:-

"(XIV) in case the goods covered under this Notification are supplied to a person who has not obtained registration number, further tax prescribed under subsection (1A) of section 3 of the Act shall be charged at the rate of one percent of the value whereas further tax at the rate specified in the said subsection (1A) of section 3 shall be charged on supplies of finished articles."

The aforesaid added condition has increased the tax burden upon the petitioners on the taxable supplies of goods made to the persons, who have not obtained registration number from the respondent No.2 for the purposes of sales tax payment. According to petitioners, Section 3(2)(b) of the Sales Tax Act, 1990, as amended by Finance Act,

2017, purports to nullify the effect of the judgment of the Hon'ble Supreme Court in the case of Mustafa Impex v. Federation of Pakistan (PLD 2016 SC 808) in which the Hon'ble Supreme Court has been pleased to hold that the power of the Federal Government could be exercised by the Federal Cabinet only. However, through impugned amendment the word "Federal Government" has been substituted by the words "Board with the approval Federal Minister in Charge". Petitioners' grievance is that it amounts to increase the incident of tax upon the petitioners' supplies through the exercise of delegated powers purportedly under Section 3(2)(b) of the Sales Tax Act, 1990, which is impressible under the Constitution of Islamic Republic of Pakistan, 1973, and the powers to impose tax is exclusively vested in the Parliament and not in the Executive.

3. Learned counsel for the petitioners have argued that petitioners are entitled to the benefit of zero rating regime under SRO 1125(I)/2011 dated 31.12.2011, as per exemption contained in Table II of the above SRO and the Entry appear at 1(iii). Learned counsel have also referred to the condition "set out at the end of the aforesaid SRO and submitted that SRO 1125(I)/2011 has been amended by SRO 584(I)/2017 dated 01.07.2017, whereby, a new condition (xiv) has been added, according to which notwithstanding zero-rating being claimed in terms of SRO 1125(I)/2011 dated 31.12.2011, amount of 1% is to be paid in terms of Section 3(1A) of the Sales Tax Act, 1990. Learned counsel for the petitioners submit that through instant petitions, petitioners have challenged the vires of SRO 584(I)/2017 dated 01.07.2017, on the basis of the judgment of the Hon'ble Supreme Court in the case of Mustafa Impex v. Federation of Pakistan (PLD 2016 SC 808) as well as the recent judgment of this Court in the case of Premier Systems (Pvt.) Ltd. v. Federation of Pakistan and others (2018 PTD 861), in which according to learned counsel for the petitioners, the case of Mustafa Impex was applied in the context of certain changes made in the Customs Act, 1969. However, according to learned counsel for the petitioners, the same changes have been made in the Sales Tax Act, 1990, therefore, these petitions are on all fours with the view already taken by this Court in the aforesaid petition.

4. According to learned counsel for the petitioners, through Finance Act, 2017, Section 3(2)(b) and Section 4(c) of the Sales Tax Act, 1990 have been amended to nullify the judgment of the Hon'ble Supreme Court in the case of Mustafa Impex [PLD 2016 SC 808], wherein, while interpreting the provisions of Article 90 of the Constitution of the Islamic Republic of Pakistan, 1973, the Hon'ble Supreme Court has been pleased to hold that power of the Federal Government could be exercised by the Federal Cabinet only. However, in an attempt of undo and to nullify the effect of the judgment prospectively, the respondents omitted the word "Federal Government" and substituted the same with "Board with the approval of the Federal Minister Incharge". Similar amendment was introduced in Section 4(c), by substituting the word "Federal" with "Board with the approval of the Federal Minister Incharge". Whereas, according to learned counsel for the petitioners, through Finance Act, 2018, in an attempt to correct past deficiency in law, Section 74(A) of the Sales Tax Act, 1990 has been introduced, according to which, all notifications and orders issued and notified in exercise of the powers conferred upon the Federal Government, before the commencement of the Finance Act, 2017, shall be deemed to have been validly issued and notified in exercise of this powers. Learned counsel for the petitioners have argued that through such amendment, the respondents attempted to cover for the actions of Federal Government in the past through this deeming clause. However, through judgment passed by the Hon'ble Supreme Court in the case of PMDC v. Federation of Pakistan and others (2018 SCMR 1956), the Hon'ble Supreme Court has been pleased to hold that effect of the judgment passed by the Hon'ble Supreme Court in the case of Mustafa Impex would be prospective and not retrospective. According to learned counsel for the petitioners in the case of Messrs TU Plastic Industries Company (Pvt.) Ltd. v. Federation of Pakistan and others [2019 PTD 1542] concerning the identical issue as faced in the instant petitions has been dealt with by Lahore High Court, wherein, Section 4(c) of the Act were struck down for being unconstitutional. The reasoning and the ratio applies equally to present petitions as well, according to which, Section 4(c) is unconstitutional for having been enacted in contravention to the constitutional mandate and in violation of law as settled in the case of Mustafa Impex by the Hon'ble Supreme Court. While, concluding their arguments, learned counsel for the petitioners have submitted that amendment brought under Section 4 of the Sales

Tax Act, 1990, is even otherwise illegal and against the spirit of Value Added Tax (VAT) mode regime. The act provides through different schemes under this act, including taxable, zero rating and exempt supplies, however, through impugned amendment, attempt has been made to apply Further Sales Tax on zero rating regime, which completely distorts the scheme of the law. Learned counsel for the petitioners have prayed that the impugned amendment through aforesaid SRO may be declared to be illegal and without lawful authority, whereas, respondents may be directed to refund the amount of sales tax collected from the petitioners pursuant to SRO 584(I)/2017 dated 01.07.2017.

5. Conversely, learned counsel for the respondents have controverted the above submissions of the learned counsel for the petitioners and have argued that petitioners have challenged the charging of further tax under Section 3(1A) of the Sales Tax Act, 1990, which is also applicable on supplies made under Section 4 of the Act, provides that further tax under 3(1A) of the Act is chargeable on supplies made under Zero Rated regime, whereas, according to learned counsel, Zero Rated supplies are not exempt from further tax as the same are chargeable under Section 6(d) of the Sales Tax Act, 1990. It has been argued by the learned counsel for the respondents that in the case of Messrs Elahi Cotton Mills Ltd and others v. Federation of Pakistan and others [PLD 1997 SC 582], the Hon'ble Supreme Court has been pleased to hold that the policy of tax, in its operation may result in hardship and disadvantageous to the individual assesses, which are accidental and inevitable. Simplicitor, this fact will not constitute violation of any of the fundamental right and therefore, should be saved rather destroyed and the Courts must leave in favour of upholding the constitutionality of legislature keeping in view that rules of constitutional interpretation is that there is a presumption of constitutionality of legislative enactment, unless ex-facie it is violative of the constitutional provision. In support of their contention, learned counsel for the respondents has placed reliance the case of Ali Haider Khan v. Province of Punjab through Chief Secretary and 7 others [2016 PTD 2525 Lahore], Muhammad Khalid Qureshi [2017 PTD 805 Lahore], Ellahi Cotton Mills Ltd. and others v. Federation of Pakistan and others [PLD 1997 SC 582], Tandliwala Sugar Mills Ltd. [2001 SCMR 1398]. While concluding his submissions, learned counsel for the respondents has prayed that above petitions may be dismissed for being misconceived and not maintainable.

6. We have heard learned counsel for the parties, perused the record and the relevant provisions of the Sales Tax Act, 1990 as well as the SRO as referred to hereinabove, with their assistance. Petitioners have in fact challenged the vires of SRO 584(I)/2017 dated 01.07.2017, whereby, an amendment has been brought in SRO 1125(I)/2011 dated 31.12.2011, according to which, notwithstanding zero rating being claimed in terms of SRO 1125(I)/2011 dated 31.12.2011, the amount of 1% is to be paid in terms of Section 3(1A) of the Sales Tax Act, 1990. According to learned counsel for the petitioners, the impugned SRO has been issued in violation of the judgment passed by the Hon'ble Supreme Court in the case of Mustafa Impex v. Federation of Pakistan and others [PLD 2016 SC 808], as well as the recent judgment of this Court in the case of M/s. Premier System (Pvt.) Ltd., in which, according to learned counsel for the petitioners, the case of Mustafa Impex was applied in context of second amendment made under the Customs Act, 1969. However, according to learned counsel for the petitioners, the same changes have been made in Sales Tax Act, 1990, therefore, these petitions are all force in view already taken by this Court in the aforesaid petitions. According to learned counsel for the petitioners, through Finance Act, 2017, Section 3(2)(b) and Section 4(c) of the Sales Tax Act, 1990 have been amended to nullify the judgment of the Hon'ble Supreme Court in the case of Mustafa Impax v. Federation of Pakistan and others [PLD 2016 SC 808], while interpreting the provision of Article 90 of the Constitution of the Islamic Republic of Pakistan, 1973, wherein, Hon'ble Supreme Court has been pleased to hold the powers of the Federal Government could be exercised by the Federal Cabinet only, however, in an attempt to undo and nullify the effect of the judgment prospectively, the respondents omitted the word "Federal Government" and substituted the same with "Board with the approval of the Federal Minister Incharge". Similar amendment has been introduced in Section 4(c) by substituting the word "Federal Government", whereas, according to learned counsel, through Finance Act, 2018, in an attempt to correct past deficiency, Section 74(A) of the Sales Tax Act, 1990 has been introduced, according to which, all notification and

orders issued and notified in exercise of the powers conferred upon the Federal Government, before the commencement of the Finance Act, 2017, shall be deemed to have been validly issued and notified in exercise of this powers. In the case of PMDC v. Federation of Pakistan and others (2018 SCMR 1956), the Hon'ble Supreme Court has been pleased to hold that the effect of the judgment passed by the Hon'ble Supreme Court in the case of Mustafa Impex would be prospective effect and not retrospective. Similarly, in the case of Messrs TU Plastic Industries Company (Pvt.) Ltd. v. Federation of Pakistan and others (2019 PTD 1542) concerning the identical issue as faced in the instant petitions has been dealt with by Lahore High Court in the instant petitions, wherein, the amended provisions of Section 4(c) of the Act were struck down for being unconstitutional. It is pertinent to note that in the case of Mustafa Impex while interpreting the provision of Article 90 of the Constitution and the rules of business of the Federal Government, by the Hon'ble Supreme Court has been pleased to hold that the amendment brought in the taxing statute by the Federal Government, however, such authority cannot be delegated to an executive authority.

7. From perusal of hereinabove judgment of the Hon'ble Supreme Court in the case of Mustafa Impex, as well as the decision by a Divisional Bench of this Court case of M/s. Premier Systems (Pvt.) Ltd. further tax under Section 3(1A) of the Sales Tax Act, 1990 cannot be charged in respect of supplies made to an unregistered person, by issuing a Notification with the approval of Federal Minister Incharge. Consequently, we are of the opinion that the impugned the SRO 585(1)/2017 dated 01.07.2017 has been issued without lawful authority, therefore, the said Notification has been declared to be illegal and without lawful authority, hence of no legal consequences. Similarly, the amendment introduced through Finance Act, 2017 in Section 3(2)(b) and Section 4(c) of the Sales Tax Act, 1990, whereby, the word "Federal Government" has been omitted and substituted with "Board with the approval of the Federal Minister Incharge" is totally illegal and in violation of the judgment of the Hon'ble Supreme Court in the case of Mustafa Impex, as well as judgment passed by a Divisional Bench of this Court in the case of Premier Systems v. Federation of Pakistan and others (2018 PTD 861), whereas, the amendment introduced through Finance Act, 2018 substituting the word "Federal Government" with the "Board with the approval of the Federal Minister Incharge", whereby, an attempt has been made to correct the past deficiency in law, while introducing Section 74(A) of the Sales Tax Act, 1990 giving it retrospective effect is also illegal, contrary to law, more particularly, in view of the judgment passed by the Hon'ble Supreme Court in the case of PMDC v. Federation of Pakistan and others (2018 SCMR 1956), wherein, the Hon'ble Supreme Court has been pleased to hold that the case of Mustafa Impex would be prospective and not retrospective.

8. This aspect of the matter has been examined by the learned Bench of the Lahore High Court in the case of M/s. TU Plastic Industries Co. (Pvt.) Ltd. v. Federation of Pakistan and others (2019 PTD 1542), wherein, it has been hold as under:-

"5. The challenge to the constitutionality of section 4(c) of the Act was compelled primarily on the basis of a judgment rendered by the High Court of Sindh in C.P. D-7159 of 2017 ("the judgment") which struck down as unconstitutional section 18(3) of the Customs Act, 1969 which is in pari materia with section 4(c) of the Act. Section 18(3) of the Customs Act, 1969 confers on the Federal Government the power to impose a regulatory duty on a wide range of imports. It states that:

'18(3) The Board, with approval of the Federal Minister-in-charge may, by notification in the official Gazette, levy, subject to such conditions, limitations or restrictions as it may deem fit to impose, a regulatory duty on all or any of the goods imported or exported, as specified in the First Schedule at a rate not exceeding one hundred per cent of the value of such goods as determined under section 25 or, as the case may be, section 25A.'

6. The above provision was brought under attack in a number of petitions before the High Court of Sindh on the ground that the conferment of power on the Board with the approval of Federal Minister-in-charge was ultra vires the enunciation of the Constitution as well as the holding of the Supreme Court of Pakistan in Messrs Mustafa Impex, Karachi and others v. Government of Pakistan through Secretary Finance, Islamabad and others PLD 2016 SC 808 = 2016 PTD 2269. It may be mentioned that section 18(3) was made subject to the

same set of amendments as section 4(c) of the Act, 1990 and so there is a striking similarity between the two. The ground was permitted to be raised in these petitions and a notice was issued to the respondents including the Federal Government as also a notice in terms of Order XXVII-A, C.P.C. to the Attorney General was issued. The parties have been heard today in support of their respective contentions. The arguments which featured in this case revolved around the issue whether the decision of the High Court of Sindh provided the constitutional justification for striking down section 4(c) as well.

7. There is no doubt that section 18(3) of the Customs Act, 1969 is in similar terms as section 4(c) of the Act and empowers the Federal Government to levy by notification in the official gazette a regulatory duty on all or any of the goods to be imported or exported as specified in the first schedule. Thus, the delegation of powers is in respect of imposition of a regulatory duty on the Federal Government by the legislature. Section 4(c) of the Act also empowers the Federal Government to specify such other goods which may be charged to tax at the rate of zero per cent. Section 4(c) also contemplates the delegation of legislative power of taxation and the discretion has been vested in the hands of the Federal Government to specify the goods which will be charged to tax at the rate of zero per cent. By the impugned notification the petitioners have been subjected to the imposition of a further tax at the rate of one per cent if the goods were supplied to a person who has not obtained registration number and this is despite the fact that the supply of goods is being charged to tax at the rate of zero per cent. The issue before the High Court of Sindh was whether the amendment made by the Finance Act, 2017 in section 18(3) of the Act, 1969 offended the provisions of the Constitution and the holding of the Supreme Court of Pakistan in *Mustafa Impex*. While taking into account the various aspects of the controversy in the context of the constitutional structure as, undertaken by the Supreme Court of Pakistan in *Mustafa Impex*, the High Court of Sindh came to the conclusion that the amendment made through Finance Act, 2017 by the insertion of the words "Board with the approval of Federal Minister-in-charge" did not erase the defect which had been determined by the Supreme Court and the constitutional mandate was that any such power could only be conferred on the Federal Government and not otherwise and in particular no entity other than the Federal Government could be empowered to levy any tax and the attempt to enact section 18(3) of the Act, 1969 was merely an attempt to nullify the judgment in *Mustafa Impex* which it had failed to do so since a statutory provision could not undo the ratio decidendi of a judgment which merely propounds the various constitutional provisions. Thus, it was held that the delegated legislative powers to impose a duty or tax was a function that can only vest in the Federal Government itself and not elsewhere or otherwise. In conclusion, the amendment made to section 18(3) by the Finance Act, 2017 was held to be contrary to the constitutional mandate and declared to be ultra vires the Constitution.

9. In the same judgment, the learned Bench of Lahore High Court has also dilated upon the validity and applicability of Section 74A of the Sale Tax Act, 1990, introduced through Finance Act, 2017, wherein, it has been held that as under:-

"15. The above provision, suffice to say, has no relevance to the controversy in hand. It seeks to validate the acts of the Federal Government and not that of the Board with the approval of the Federal Minister-in-charge. The latter acts are not covered by the validation made.

16. In view of the above, these petitions are allowed. It is declared that: (a) the amendment in Section 4(c) of the Act enacted through Finance Act, 2017 is ultra vires the Constitution and of no legal effect; (b) the notification issued in terms thereof in purported exercise of the powers conferred by section 4(c) of the Act is also declared ultra vires and of no legal effect and is hereby struck down."

10. While applying the ratio of the judgment of Hon'ble Supreme Court in the case of *Mustafa Impex* as well as the judgment of passed by this Court in the case of *Premier Systems v. Federation of Pakistan and others* (2018 PTD 861) as well as the judgment passed by the Lahore High Court in the case of *Messrs T.U. Plastic Industry Co. (Pvt.) Ltd. v. Federation of Pakistan and others* (2019 PTD 1542) to the facts and legal issue

involved in the instant petitions, we are of the opinion that the controversy agitated through instant petition has already been decided by the Divisional Bench of this Court in the case of Premier Systems while placing reliance in the judgment of the Hon'ble Supreme Court in the case of Mustafa Impex, therefore, these petitions can be disposed of in the similar terms.

11. Accordingly, for the above reasons, instant petitions are allowed in the following terms:-

- (i) Amendment in Section 3(2)(b) read with Section 4(c) of the Sales Tax Act, 1990, through Finance Act, 2017, to the extent of substituting the words " Board with the approval of Federal Minister Incharge", is ultravires to Constitution, and contrary to law, hence of no legal effect.
- (ii) SRO 584(I)/2017 dated 01.07.2017 issued in terms of and in purported exercise of powers conferred by, the amendment in Section 3(2)(b) and Section 4(c) of the Sales Tax Act, 1990, particularly adding of a new condition XIV to SRO 1125(I)/2011, is declared to be ultra vires the Constitution, and is of no legal effect.
- (iii) The respondents are restrained from demanding any duty in terms of SRO 584(I)/2017 dated 01.07.2017 from the petitioners.
- (iv) Provisions of Section 74A, suffice to say, have no relevance to the controversy in hand because it seeks validation of the acts of "Federal Government", and not that of the "Board, with the approval of the Federal Minister-in-Charge".

The above petitions stand allowed in the above terms along with listed application(s).

MH/A-43/Sindh

Petitions allowed.