

IN THE HIGH COURT OF SINDH, KARACHI.

C.P. No. D-4229 to 4236 of 2013

C.P. No. D- 4255 & 4270 of 2013

Abdul Aziz Rauf & others..... 4229/2013..... Petitioners
Mr. Aly M. Rawjee & others..... 4230/2013.....Petitioners
Al-Noor Akber & others..... 4231/2013.....Petitioners
Amin A. Hashwani & others..... 4232/2013.....Petitioners
Rehmat Ali Rauf & others..... 4233/2013.....Petitioners
Shoail Tai & others..... 4234/2013Petitioners
Syed Nadeem Ahmed & others..... 4235/2013.....Petitioners
Mr. Ghulam Ali P. Allana & others..... 4236/2013.....Petitioners
Iftikhar ul Haq..... 4255/2013.....Petitioner
Zia ul Haq..... 4270/2013.....Petitioner

Versus:

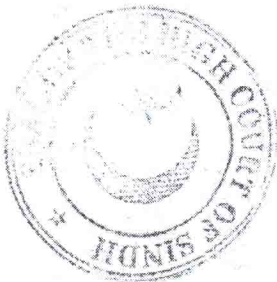
Federation of Pakistan and ors.....Respondents.

ORDER

22.10.2013

Mr. Abid H. Shaban, advocate for the petitioners
Mt. Nasir Latif Khan, advocate for the petitioner in C.P.Nos.D-4255 &
4270 of 2013.

1. Granted.
2. Granted subject to all just exceptions.
- 3&4: 1. Through instant petition, the petitioner has challenged the vires of the Income support Levy charged through the Income Support Levy Act, 2013, for being illegal and without lawful authority. It has been stated by the learned counsel for the petitioner that the subject levy is beyond the competence of the Federal Legislature after 18th Amend the concurrent list has been deleted. Per learned counsel, the purpose has been defined in the preamble of the Act itself according to which income support levy has been imposed to provide financial resources and to promote social protection and other social and economic wellbeing of distressed persons and families, which according to learned counsel, falls within the domain and legislative competence of the Provincial Legislature. It has been further contended by the learned counsel for the petitioner that the levy is also discriminatory as it intends to doubly tax the existing tax payers who are already paying tax and file their yearly return of income alongwith wealth statement, whereas the persons who might have accumulated huge wealth and moveable assets but not filing their tax returns are not made liable to pay any income support levy under the

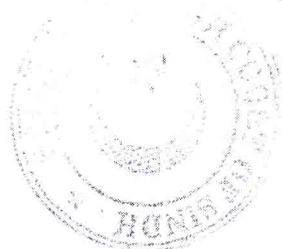


impugned enactment as no mechanism is provided under the impugned enactment for such purpose. Learned counsel further stated that this levy amounts to double taxation, as according to the learned counsel, acquiring of assets or any increase thereon is primarily on the basis of income earned by a tax payer during a particular year upon which tax is already paid, whereas, the moveable assets is the accumulation of the savings of the tax payer for that year. Per learned counsel, the subject levy has been imposed only to extract money from the existing tax payers by further burdening them in order to achieve the financial targets, whereas there is no rationale behind such levy.

2. Learned counsel for the petitioners has further stated that number of petitions on the same subject controversy including C.P.No.D-3757, 3758, 3759, 4071, 4072 and 4164 of 2013 have already been admitted to regular hearing by this Court, whereas restraining orders have been passed, hence requests that instant petitions may also be admitted to regular hearing, and office may be directed to tag instant petitions alongwith aforesaid petitions. It has been further prayed that interim order as passed in C.P. No.D-3757 of 2013 on 10.10.2013, may also be passed in the instant petitions.

3. We have heard the learned counsel for the petitioners and perused the order dated 10.10.2013 passed in C.P.No.D-3757 of 2013 as referred to hereinabove by the learned counsel for the petitioners. Contention as raised by the learned counsel for the petitioners requires consideration. We would accordingly, admit instant petitions to regular hearing.

4. Let notice be issued to the respondents as well as DAG for 07.11.2013, to be taken up at 11:00 a.m. alongwith aforementioned petition before the same bench. In the meanwhile, the interim order passed in C.P.D-No.3757 of 2013 on 10.10.2013 in the following terms shall also operate in the instant petitions and shall also apply in the case of other



taxpayers as well to maintain uniformity and to avoid any confusion and inconvenience to the taxpayers at large.

“5. Since we have admitted instant petition to regular hearing, we would, in the meanwhile, allow the petitioner to submit their return of income for the tax year 2013 without filing computation and payment form in terms of Income Support Levy Rules, 2013, and without making payment of the income support levy, which may be treated as a proper and valid return of income. No adverse inference may be drawn against petitioner in this regard, whereas, no default surcharge may be levied till disposal of the petition.

6. We may further observe that in case, under E. portal system, return is not accepted on account of non-filing of computation and payment form in terms of the Act and the Rules and non-payment of income support levy, either necessary modification in the software be made instantly or the petitioner may be allowed to file his return of income manually, to avoid any delay in this regard.”

5. Let copy of this order be sent to the respondents as well as Chairman, Federal Board of Revenue through Fax to ensure the compliance of the order of this Court.

Sd/- Aqeel Ahmed Abbasi (Judge)
Sd/- Muhammad Junaid Ghaffar (Judge)
Certified to be true
Assistant Registrar Writ.

Copy of order is forwarded for information and compliance to:

1. Federation of Pakistan,
Through Secretary Revenue Division and Ex-Officio
Chairman, Federal Board of Revenue Federal Board of
Revenue House, Constitution Avenue, G-5, Islamabad.
2. The Chief Commissioner Inland Revenue,
Regional Tax Office-III, Income Tax House, Shahrah-e-Kamal
Ata Turk, Karachi.

Chairman, Federal Board of Revenue, Karachi.

Assistant Registrar Writ.