

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

**Justice AAMER FAROOQ
Justice ALI BAQAR NAJAFI
Justice ROZI KHAN BARRECH**

F.C.P.L.A. No.23/2026

(Against judgment dated 24.12.2025, passed by the High Court of Sindh, Karachi in C.P.No. D-5191/2025)

M/s Sceptre Pvt. Ltd.

...Petitioner(s)

Versus

Federation of Pakistan & Others

...Respondent(s)

For the Petitioner(s) : Dr. Shahab Imam, AHC with permission, Syed Rifaqat Hussain Shah, AOR

For respondent No.1 : Mr. Riaz Hussain Azam, AOR/ASC

For respondent Nos.3-4 : Mr. Muhammad Anas Makhdoom, ASC, Dr. Muhammad Usman Mirza, AOR

Date of Hearing : 23.01.2026

ORDER OF THE COURT

JUSTICE AAMER FAROOQ:

1. The petitioner has impugned before us the decision of Sindh High Court in CP No. D-5191 of 2025, whereby its writ petition against the raid conducted by the tax authorities under section 175 of the Income Tax Ordinance, 2001, was held to be valid (“**impugned judgment**”).
2. Before us, an application was filed on behalf of the petitioner, whereby Dr. Shahab Imam, Advocate High Court, sought permission to appear and argue the case on account of the fact that he had appeared before the High Court and is well-conversant with the facts of the case. The referred application was allowed and Dr. Shahab Imam, Advocate High Court, was permitted to make submissions.
3. It was contended by the learned counsel for the petitioner that it is *sine qua non* for applicability of section 175 of the Income Tax

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Ordinance, 2001 (“**the Ordinance**”) that there has to be some on-going proceedings against the petitioner. Learned counsel drew attention of the Court towards the notice under section 176 of the Ordinance, whereby certain documents and information was required to be submitted, which was sent. He argued that referred facts cannot form basis for raid under section 175 of the Ordinance. We have heard the learned counsel and pursued the record available.

4. The entire controversy revolves around the interpretation of section 175 of the Ordinance. In this behalf, for ease of reference, section 175 is reproduced herein below: -

“175. Power to enter and search premises. - (1) In order to enforce any provision of this Ordinance (including for the purpose of making an audit of a taxpayer or a survey of persons liable to tax), the Commissioner or any officer authorised in writing by the Commissioner for the purposes of this section –

- (a) shall, at all times and without prior notice, have full and free access [including real-time electronic access] to any premises, place, accounts, documents or computer;
- (b) may stamp, or make an extract or copy of any accounts, documents or computer-stored information to which access is obtained under clause (a);
- (c) may impound any accounts or documents and retain them for so long as may be necessary for examination or for the purposes of prosecution;
- (d) may, where a hard copy or computer disk of information stored on a computer is not made available, impound and retain the computer for as long as is necessary to copy the information required; and
- (e) may make an inventory of any articles found in any premises or place to which access is obtained under clause (a).

(2) The Commissioner may authorize any valuer or expert to enter any premises and perform any task assigned to him by the Commissioner.]

(3). The occupier of any premises or place to which access is sought under sub-section (1) shall provide all reasonable facilities and assistance for the effective exercise of the right of access.

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(4) Any accounts, documents or computer impounded and retained under sub-section (1) shall be signed for by the Commissioner or an authorised officer.

(5) A person whose accounts, documents or computer have been impounded and retained under sub-section (1) may examine them and make extracts or copies from them during regular office hours under such supervision as the Commissioner may determine.

(6) Where any accounts, documents or computer impounded and retained under sub-section (1) are lost or destroyed while in the possession of the Commissioner, the Commissioner shall make reasonable compensation to the owner of the accounts, documents or computer for the loss or destruction.

(7) This section shall have effect notwithstanding any rule of law relating to privilege or the public interest in relation to access to premises or places, or the production of accounts, documents or computer-stored information.

(8) In this section, "occupier" in relation to any premises or place, means the owner, manager or any other responsible person on the premises or place.

[(9) For the purpose of clause (a) of sub-section (1), the Board may make rules relating to electronic real-time assess for audit or a survey of persons liable to tax.]” [emphasis supplied]

5. “Strictly speaking, there is no place for interpretation or construction except where the words of the statute admit of two meaning”, See Craies on Statute Law, 7th Edition by S.G.G. Edgar, page 64. This suggests that in interpreting a statute and determining the significance of its expressions, words, and legal effect, which is ultimately a question of law, our starting point must always be the words of the statute itself. “The cardinal rule of the construction of Acts of Parliament is that they should be construed according to the intention expressed in the Acts themselves”, See Craies on Statute Law, *ibid*. The rationale for beginning with the ordinary and natural meaning of the statutory language is that legislation is often drafted to address specific situations in clear and straightforward terms. In such

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instances, the words used are precise and are not intended to extend beyond their plain scope or to be expanded into broader contexts. Since the primary objective of statutory interpretation is to ascertain the intention of the lawmaker, the most appropriate and reliable method is to commence with the ordinary and clear meaning of the words used.

6. “If the legislature says that a deed shall be ‘null and void to all intents and purposes whatsoever’, how can a court of equity say that in certain circumstances it shall be valid?”, *See, Edwards v. Edwards* (1876) 2 Ch.D. 291 (Per MELLISH, LJ). The principle emerging from that dictum is clear: where the language of the legislature is express and unequivocal, the courts are not at liberty to qualify, dilute, or contradict it. Applying the same reasoning to the present case, when Parliament has expressly provided that “In order to enforce any provision of the Ordinance, the Commissioner or any officer authorised in writing by the Commissioner for the purposes of this section shall, at all times and without prior notice, have full and free access [including real-time electronic access] to any premises, place, accounts, documents or computer,” how can a court of law read into the statutory provision that a proceeding must be pending before Section 175(1)(a) of the Ordinance can be triggered? The answer is that it cannot. Courts must be restrained to grant relief in a manner that runs contrary to clear and express statutory provisions. The Ordinance unequivocally states “in order to enforce any provisions of the Ordinance,” and the term “any” must be understood to encompass the entirety of the Ordinance.

7. Our attention is also drawn to the judgment of the Sindh High Court in *Agha Steels Industries v. Directorate of Intelligence and Investigation*, 2019 PTD 2119 (Per JUNAID GHAFAR, J.), wherein it was

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observed by the Court that the Commissioner or any person authorised by him in writing, for the enforcement of any provision of the Ordinance, may undertake the measures set out in Section 175(1)(a)–(e). The Court proceeded to hold that “there [must be] some pending proceedings against a taxpayer, and for one reason or the other, there is obstruction in the enforcement of such proceedings, and as a last measure, again to enforce such proceedings resort is to be made to enter and search the premises of the taxpayer”, *See, ibid* p.8. With utmost respect, we find ourselves unable to reconcile with the dictum laid down in *Agha Steels, supra*. The judgment does not demonstrate how such a requirement, namely, the existence of pending proceedings, can be read into Section 175 of the Ordinance when there is nothing that hints to its presence. Nor does it explain the legal basis upon which a search of a taxpayer’s premises, expressly sanctioned under Section 175 of the Ordinance, is to be treated as a measure of last resort. At best, it appears that the Court attempted to dilute the effect of Section 175. While we acknowledge that the provision is indeed stringent and that its severity may call for mitigation, such mitigation falls within the legislative domain. The Court is not the appropriate forum to rewrite or qualify clear statutory language. It is a settled principle that courts cannot grant relief in a manner that runs contrary to express statutory provisions.

8. However, what the reading of Section 175 of the Ordinance holistically suggests is that it “empowers” the Commissioner to act for the “enforcement of any provision of this Ordinance”. Now, this power is not unlimited either and nor unfettered as it is “conditional”, see *K.K. Oil and Ghee Mills Pvt. v. FBR*, 2016 PCTLR 441 (Per ATHAR MINAALLAH, J.). So, the words used by the Parliamentarians is “enforcement” and

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“enforcement” requires “breach”. When a law is breached, then it is “enforced”. If the statute had used the word “implement” then it seems that the situation would have been different. Herein, the power is circumscribed by a certain breach of the provisions of the Ordinance, to which the Commissioner or the authorised individual is to then “enforce”, and therefore, “there must be a clear statement before the Commissioner of which provision of the Ordinance is to be enforced and the reasons for it”, because “without such an explicit statement, in writing this power under this Section can be abused”, *See, Khurram Shahzad v. Federation of Pakistan*, 2019 PTD 1124 (Per AYESHA A. MALIK, J.).

9. Therefore, the examination of section 175 of the Ordinance shows that the words used are very clear and simple, that this provision can be invoked for enforcement of any provision of the Ordinance. The impugned judgment correctly rejected the petitioner’s plea on the ground that the Court’s precedent in the *Agha Steels* case was followed. Although we do not agree with the view expressed in the *Agha Steels* case, the petition is nevertheless liable to be dismissed. Even if the requirements laid down in *Agha Steel* case are not strictly followed, the mere fact remains that the Commissioner or an officer authorized by him is empowered to act for the enforcement of the Ordinance under Section 175 (subject to para 8 above). In view of the referred provision of law and the factual aspects of the matter, the impugned judgment does not suffer from any infirmity warranting interference.

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10. For the above reasons, instant petition fails and is accordingly dismissed. Leave is refused.

Judge

Judge

Judge

Islamabad
23.01.2026
Zawar/
APPROVED FOR REPORTING