

**Paper Presented on Constitutional
remedies available under the Fiscal
laws.**

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INCOME TAX ORDINANCE, 2001

- Provisions for appellate remedies in the Income Tax Ordinance, 2001.

Chapter X

(Part-III)

- Section 127 [appeal to the Commissioner Inland Revenue (Appeals)].
- section 128 (Procedure in appeal)
- Section 129 (Decision in appeal)

Income Tax Ordinance, 2001

- Section 131 (Appeal to the Appellate Tribunal)
- Section 132 (Disposal of appeals by the Appellate Tribunal)
- Section 133 (Reference to High Court)
- Section 134A (Alternative Dispute Resolution)

SALES TAX ACT, 1990

Chapter-VIII Appeals

- Section 45-B [Appeal to the Commissioner Inland Revenue (Appeals)]
- Section 46 (Appeals to the Appellate Tribunal)
- Section 47 (Reference to High Court)
- Section 47A (Alternative Dispute Resolution)

FEDERAL EXCISE ACT, 2005

Chapter V

Powers, Adjudication and Appeals

- **Section 33 [(Appeals to the Commissioner(Appeals))]**
- **Section 34 (Appeals to Appellate Tribunal)**
- **Section 34A (Reference to High Court)**
- **Section 38 (Alternative Dispute Resolution)**

CUSTOMS ACT, 1969

Chapter XIX

Appeals and Revisions

- Section 193 [Appeals to Collector (Appeals)]
- Section 193-A (Procedure in appeal)
- Section 194 (Appeals to the Appellate Tribunal)
- Section 194-B (Orders of Appellate Tribunal)
- Section 194-C (Procedure of Appellate Tribunal)
- Section 195-C (Alternative Dispute Resolution)
- Section 196 (Reference to High Court)

Constitutional Remedies available under the
Constitution of Islamic Republic of Pakistan, 1973

- Article 199 of Constitution of Islamic Republic of Pakistan, 1973(Jurisdiction of High Court).
- Article 184(Original Jurisdiction of Supreme Court).
- Article 185 (Appellate Jurisdiction of Supreme Court

Domain of High Courts

- In Lahore High Court, Islamabad High Court, Peshawar High Court and Baluchistan High Court, the writs are being heard by the Single Bench whereas in Sindh High Court writs are being heard by the Division Bench.
- In Sindh High Court the Constitutional petitions called as Civil petition(C.P) whereas in all other High Courts Constitutional Petitions called writ petition(W.P).

Additional Remedy

- In Sindh High Court the Fiscal issues can be raised in Civil Suit(High Court's original jurisdiction) whereas in all other High Courts on fiscal matters no Civil Suit can be file.

When Constitutional Remedy can be availed

- Against illegal, void ab initio, palpably without jurisdiction show cause notice.
- Void ab initio order.
- Stay of proceedings and tax recoveries.
- Vires of provisions of law.
- Interpretation of any provision of law.
- Retrospective or prospective applicability of any provision of law.
- Discrimination.

Numerous judgments on the issue of maintainability of C.P & W.P.

- 2002 PTD 679
- 1998 PTD 2012
- 2010 PTD 2338
- 1993 PTD 332
- 1990 PTD 889
- 1999 SCMR 1072

Numerous Judgments on the issue of
maintainability of C.P & W.P.

- 1990 PLD 399 S.c
- (2004) 89 Tax 158(H.c)
- (2000) 81 Tax 309(H.c)
- (1993) 67 Tax 133(H.c)
- 2011 PTD 2260
- 2015 LHC 3623
- 2011 PTD 1558(K.H.C)

Numerous Judgments on the issue of grant of stay during pendency of appeal before CIR(A) and ATIR

- 2002 PTD 679(KAR)
- 2003 PTD 1746(LHR)
- 1998 PLD 1445(SC)
- 2009 PTD 1715(H.C)
- 2003 PTD 1746(H.c)

Numerous Judgments on the issue of grant of stay during pendency of appeal before CIR(A) and

ATIR

- (2008) 98 TAX 295 (H.C)
- 2006 PTD 535 (H.C)
- (2009) 100 TAX 344 (H.C)
- 2002 PTD 1616 (H.C)
- (2006) 94 TAX 140 (H.C)
- PTCL 2010 CL 460

THANKS