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Judgment Sheet

IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

Case No: W. P. No. 32597 of 2015.

Nestle Pakistan Limited etc. **Versus** The Federal Board of Revenue etc

JUDGMENT

Dates of Hearing:	25.11.2016.
Date of Decision:	09.01.2017.
Petitioners by:	M/s Imtiaz Rashid Siddiqui, Barrister Shehryar Kasuri and Muhammad Humzah, Advocates. M/s Mansoor Usman Awan, Rana Muhammad Afzal, Rana Munir Hussain, Shahbaz Butt, Khurram Shahbaz Butt, Shehzad Ata Elahi, Shahid Pervez Jami, Mudassar Shuja-ud-Din, Ch. Muhammad Ali, Hassan Kamran Bashir, Mian Ashiq Hussain, H. M. Majid Siddiqi, Salman Akram Raja, Dr. Ilyas Zafar, Syed Nasir Ali Gillani, Salman Zaheer Khan, Navid A. Andrabi, Khurram Saleem, Ijaz Ahmad Awan, Nauman Mushtaq Awan, Sajjad Ahmad Awan, Mahvish Tahira, Muhammad Raza Qureshi, Shezada Mazhar, Asad Raza, Hamid Shabbir Azar, Khalil-ur-Rehman, Suhail Raza Arbey, Hafiz Muhammad Saif-ur-Rehman, Shahbaz Siddique, Abdul Waheed Habib, Ms. Ayesha Rasheed, Iftikhar Ahmad Mian, Salman Ahmad, Mian Haseeb-ul-Hassan, Ali Sufyan Faiz, Muhammad Naveed Muhammad Nauman Yahya, Shabbir Goraya, Rana Muhammad Arshad Khan, Kh. Mehmood Ayaz, Muhammad Azam Chughtai, Nadeem Ahmad Sheikh, Ahmed Tariq, Muhammad Aamir Qadeer, Rao Tahir Shakeel, Muhammad Ali, Majid Jahangir, Jan Muhammad Chaudhry, Waheed Shahzad Butt, Muhammad Maroof Mittha, Rasheed Ahmad Sheikh, Shoaib Ahmad Sheikh, Kamran Shahid, Arslan

	Riaz, Shahid Hussain Chaudhry, Muhammad Imran Rasheed, Yawar Mehdi Naqvi, Imtiaz Ahmad Butt, Muhammad Ijaz Ali Bhatti, Muhammad Ajmal Khan, Sumaira Khanum, Javed Iftikhar Ahmad Ansari, Malik Atif Imran Khokhar, Javed Iqbal Qazi, Usman Javed Qazi, Faisal Hanif, Muhammad Riaz, Muhammad Waseem, Muhammad Mohsin Virk, Muhammad Ahsan Virk, Muhammad Mansha Sukhera, Muhammad Ali Awan, Sirdar Ahmad Jamal Sukhera, M. Iqbal Hashmi, M. M. Akram, Sumair Saeed Ahmad, Waseem Ahmad Malik, Muhammad Naeem Munawar, Sheikh Aqeel Ahmad, Saood Nasrullah Cheema, Muhammad Shahid Baig, M. Azam Shahid Malik, Ashiq Ali Rana, Muhammad Saad Khan, Afzal Bhatti, Hassan Shakil, Mustafa Kamal, Hasham Aslam Butt, Mehar Alam Sher, Abdul Quddus Mughal, Mian Mahmood Rashid, Monim Sultan, Muhammad Nasir Khan, Mirza Anwar Baig, Mirza Bilal Zafar, Masood Ahmad Wahla, Ghulam Murtaza, Ch. Maqbool Hussain, Shafiq Ahmed Chawla, Muhammad Afzal Sulehri, Kamran Khalil, Zaheer-ud-Din Babar, Muhammad Ramzan, Muhammad Farooq Sheikh, Kashif Siddique Bhatti, Malik Fida Hussain, Malik Ahsan Mehmood, Muhammad Shabbir Hussain, Usman Ali Bhoon, Mubashir Rehman, Barrister Kashif Rafiq Rajwana, Zulfiqar Ali Khan, H. M. Azhar Ali, Sayyid Ali Imran Rizvi, Rana Muhammad Zubair Rafique, Amir Umer, Shahid Umer, Tariq Mehmood Ansari, Zaeem-ul-Farooq Malik, Habib-ur-Rehman, Inamul Haq Sheikh, Mustafa Raza Ansari, Naeem Khan, Zahid Ateeq Ch., Munawar-us-Salam, Mahmood Ahmad, Malik Muhammad Arshad, Mian Mansoor Ahmad, M. Mukhtar Nadeem Ch., Muhammad Usman Hafeez, Abdul Hafeez Ansari, Nadeem Kausar, Ahmad Bilal, Barrister Zurgham Lukhesar, Mian M. Shakeel Ahmad, Syed Naeem-ud-Din Shah, Amir Umar Khan, Iqbal Qazi, Atif

	Imran, Muhammad Arif Latif, Rana Shahzad Khalid, Waqas Latif, Touseef Hider, M. Shahbaz Ahmad, Ch. Naveed Akhtar Bajwa, Muhammad Saqib Sheikh, Agha Sarfraz Ahmad, Farhan Shahzad, Sami Ullah Zia, Khurram Abbas Sheikh, Zafar Iqbal Chohan, Ghulam Rasool Sial, Waseem Ahsan, Aurangzeb Tahir, Rana Muhammad Imran Qamar, Syed Alamdar Hussain, Mirza Mubasher Baig, M. Mubashar Khalid Hajvery and Haseeb Zia Ch., Advocates for the petitioners in connected writ petitions.
Respondents by:	Mr. Sarfraz Ahmad Cheema, Advocate. M/s Mian Qamar-ud-Din Ahmad, Raja Sikandar Khan, Izharul Haque, Ch. Muhammad Zafar Iqbal, Muhammad Nawaz Waseer, Muhammad Asif Hashmi, Liaquat Ali Chaudhry, Muqtadir Akhtar Shabbir, Asjad Saeed, Nasir Mahmud, Muhammad Yahya Johar, Ch. Imtiaz Elahi, Akhtar Ali Monga, Barrister Pirzada Aurangzaib, Ibrar Ahmad, Muhammad Amir Malik, Qamar Farooq, Waqar A. Sheikh, Rana Muhammad Mehtab, Saeed-ur-Rehman Dogar, Imran Rasool, Hafiz Shahzad Ahmad Cheema, Malik Abdullah Raza, Ch. Muhammad Yasin Zahid, Muqtedir Akhtar, Hashim Aslam Butt, Shahid Sarwar Chahil, Ms. Foziya Bukhsh, Javed Athar, Muhammad Awais Kamboh, Khawar Bharwanah, Muhammad Akram Awan and Rizwan Khalid Awan Advocates for the respondents in connected petitions. Mr. Tahir Mehmood Khokhar, Standing Counsel for Pakistan. Dr. Hamid Attique, Commissioner LTU, Zone-II, Lahore. Mr. Tariq Chaudhry, Commissioner LTU Zone-III, Lahore. Dr. Ishtiaq Ahmad Khan, Commissioner Inland Revenue, LTU, Lahore. Mr. Aftab Ahmad Khan, Member Audit, FBR. Mr. Khalid Sultan, Deputy Secretary Audit, FBR.

Shahid Jamil Khan, J:- This judgment shall also decide connected Writ Petitions, enlisted at the bottom of this judgment, as all the petitioners felt aggrieved of selection for audit, through Random Ballot, by Federal Board of Revenue **("FBR")** under Audit Policy 2015 **("Audit Policy")**. The petitioners have challenged the Audit Policy, the Ballot conducted on 14.09.2015 and issuance of respective notices after the selection.

2. The impugned Ballot was conducted by FBR, exercising authority conferred under provisions of three "**Federal Taxing Statutes**" i.e., Section 214C of Income Tax Ordinance 2001 **("Ordinance of 2001")**, Section 72B of Sales Tax Act 1990 **("Act of 1990")** and Section 42B of Federal Excise Act 2005 **("Act of 2005")**. Impugned selection was made for audit, of the declarations in respective returns, of Tax Year 2014 relating to Income Tax and corresponding Tax Period(s), i.e. from July 2013 to June, 2014 regarding Sales Tax and Federal Excise Duty.

The impugned Audit Policy 2015, as per its scope mentioned therein, has set out procedures and guidelines for processing the cases of persons and/or classes of persons, selected through impugned Random Ballot. The Ballot was carried out on data, separately for each type of the federal tax, after exclusion of the cases mentioned in Part 6 of the impugned Policy.

3. Main thrust of the arguments by petitioner's side, besides raising numerous technical and legal objection, was that the impugned selection for audit through random ballot is made by ignoring the judgment of this court in the *Defence Housing Authority v. Commissioner Inland Revenue etc.* **(2015 PTD 2538)**. The judgment in the DHA case was delivered to resolve the dispute regarding selection for audit on parametric basis.

Scope of audit was discussed briefly and by placing reliance on judgment in *Amanullah Khan and others v. The Federal Government of Pakistan through Secretary, Ministry of Finance, Islamabad and others* **(PLD 1990 SC 1092)**, FBR was asked to structure its discretionary powers given under Section 214C of the Ordinance of 2001 and parallel provisions under other Federal statutes. Petitioners claimed that impugned selection without framing rules is illegal, whereas respondent's side argued that the *obiter dictum* in the DHA case judgment has been taken care of while framing 'the Audit Policy 2015'. Both sides read different parts of the Audit Policy in support of their respective assertions, however, the representatives of FBR, during proceedings of case, undertook and framed '*Rules for Selection and Conduct of Audit*', under each statute separately. Framing of the rules was without prejudice to their claim that the discretion had been structured in 'the Audit Policy 2015' keeping in view the guidelines given in *Amanullah Case* cited *supra*.

4. Arguments by number of learned Advocates, from both sides, were heard and recorded during proceedings. It is an admitted position that judgment in the DHA case was not challenged by either side, therefore, holds the field. Taxpayer's duty of making true declaration by comply with the provisions of law was discussed in said judgment, besides holding that the State through FBR has a right to tax and audit the declarations in tax returns. However, certain other aspects have surfaced during arguments which are being considered in this judgment. Since the findings already given in the DHA case are stepping stone for examination of the issues, therefore, relevant excerpts from the judgment are reproduced:-

> "5. The explanation given by Director (Law) FBR is not in consonance with spirit of law. Sub-section (7) of Section 177, is reproduced hereunder:--
>
> "177. Audit-

> (7) The fact that a person has been audited in a year shall not preclude the person from being audited again in the next and following years where there are reasonable grounds for such audits."
>
> [emphasis added]

A person audited in a year, can again be selected for audit in the next and following years, where there are reasonable grounds available. It appears that FBR has not understood the spirit of audit under Section 177 read with Section 214C of the Ordinance and parallel provisions under the other statutes. Section 177 reveals that the *Commissioner may call for record or documents, maintained under the Ordinance, for conducting an audit of person's income tax affairs*.

The record, which can be called for audit is the one maintained under Section 174 of the Ordinance of 2001. Under its subsection (3), the record shall be maintained for six years. It means, after selection for audit, record of last six years can be called for audit. Sub-section (2) of Section 174 authorizes the Commissioner to disallow or reduce taxpayer's claim of deduction if taxpayer is unable to produce the supporting documents/evidence. The Commissioner, under sub-section (6) of Section 177 is required to obtain explanation, if claim of an expense, deduction or allowance is not supported by any evidence or is found to have been claimed against provisions of the Ordinance of 2001. If satisfactory explanation is not provided, after issuance of notice under Section 122, the assessment or assessments of the years, record of which is audited, can be amended under Section 122(1) or (4) subject to other relevant provisions of same section.

6. Section 214C was inserted in the statute book by Finance Act, 2010. Sub-section (1) of which is reproduced hereunder:-

> **"214C. Selection for audit by the Board.---**(1) The Board may select persons or classes of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit."

The powers given to the Board are not new, such powers were available to the Board under Section 59 of the Repealed Income Tax Ordinance, 1979. The Board could select *"persons"* or *"classes of persons"* for total audit (for assessment under normal law) by ousting the taxpayers from Self Assessment Scheme. The Scheme, under Ordinance of 2001, of treating the return filed by a taxpayer as assessment order under Section 120, is called, generally, as Universal Self Assessment Scheme. FBR has again been given power under Section 214C to select a *"persons"* or *"classes of persons"* for audit through computer ballot on random or parametric basis.

> Selection through random balloting is relatively less controversial, yet some small taxpayers are selected for audit and potential cases are skipped.
>
> The Board, it appears, is unable to evolve an undisputed and transparent policy for selection of cases for audit on parametric basis. Examination of impugned parameters shows that even minor variations, as compared to previous year's declarations, are made basis for selection of cases. The plea of attaching stigma as raised in JDW Sugar Mills' Case (supra), is also a matter of concern which is to be considered by the FBR.
>
> 7. Basic characteristic of State, as envisaged in Article 7 of the Constitution of Islamic Republic of Pakistan, 1973 is its power to impose tax or cess. Article 77 says that tax shall be levied by or under the authority of Act of Parliament. It is corresponding duty of every citizen or person (as defined in Article 260 of the Constitution) to pay tax in accordance with law (Act of Parliament). Universal Self Assessment Scheme, under Ordinance of 2001, cannot be construed to have given a *carte blanche* to taxpayers, who may declare the tax payable as per their whims. A confidence is reposed on the taxpayer, presuming that payable tax declared in the income tax return is in accordance with law. It is right of the State to audit income tax affairs of a person, at least once in six years, hence his selection for audit cannot be termed as detrimental to his rights."

5. Instead of rewriting the arguments from both sides, those are discussed and dealt with issue wise.

First issue, as raised by Mr. Imtiaz Rashid Siddiqui, Advocate, is that selection under Section 72B of the Act of 1990 is in violation of Section 50 of the Act of 1990. He argued that without framing Rules under its subsection (1), the FBR could not exercise power to select taxpayers for audit, besides arguing that impugned selection is against the directions given in the DHA Case.

His arguments were adopted and extended by other learned counsels appearing for petitioner's side.

The arguments were opposed by Mr. Sarfraz Ahmad Cheema, Advocate, appearing for respondent's side by submitting that non-framing of Rules does not render the

Statute as nugatory or unworkable. He added that the provisions of Section 72B are self-executing as no intention of exercising the powers by framing Rules is appearing from its language.

His arguments were endorsed by the other learned counsels appearing for the respondents.

6. Language of Section 72B and Section 50 of the Act of 1990, is examined, along with corresponding provisions in other two Federal Statutes. Subsections (1) of the corresponding Sections are found verbatim. Section 72B is reproduced for ready reference:-

> "**72B. Selection for audit by the Board.—**(1) The Board may select persons or classes of persons for audit for tax affairs through computer ballot which may be random or parametric as the Board may deem fit.
>
> (2) Audit of tax affairs of persons selected under subsection (1) shall be conducted as per procedure given in section 25 and all the provisions of this Act shall apply accordingly.
>
> (3) For the removal of doubt, it is hereby declared that the Board shall be deemed always to have had, the power to select any person or classes of persons for audit of tax affairs under this section."

Similar language, with necessary changes, is used in Section 42B of the Act of 2005 and verbatim subsection (1) of Section 214C of the Ordinance of 2001 has already been discussed in the DHA Case judgment.

7. Language of the provisions *ibid* do not suggest for further or supplementary legislation. Even language of Section 50(1) of the Act of 1990, which bestows general rule making power to FBR, contains the word *"may"*, conferring discretion upon the Board to make Rules for carrying out the purposes of the Act. Similar discretion is found invested in corresponding provisions i.e., Section 237 of the Ordinance of 2001 and Section 40 of the Act of 2005.

The issue relating to self-executing provision was examined by Hon'ble Supreme Court of Pakistan in *Hakim Khan and 3 others v. Government of Pakistan through Secretary Interior and others* **(PLD 1992 S.C. 595)**. Power of President to commute death sentence and repugnancy of some statues, after insertion of Article 2A in the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution")**, was brought into question. The Hon'ble Court, while holding that Article 2A is not self-executing, quoted a passage from Bindra's Interpretation of Statutes, 7th Edn. The passage from 10th Edn. of same book is reproduced hereunder:-

> "A Constitutional provision is self-executing if it supplies a sufficient rule by means of which the right which it grants may be enjoyed and protected, or the duty which it imposes may be enforced without the aid of a legislative enactment. It is within the power of those who adopt a Constitution to make some of its provisions self-executing, with the object of putting it beyond the power of the legislature to render such provisions nugatory by refusing to pass laws to carry them into effect. Where the matter with which a given section of the Constitution deals is divisible, one clause thereof may be self-executing and another clause or clauses may not be self-executing. Constitutional provisions are self-executing when there is a manifest intention that they should go into immediate effect, and no ancillary legislation is necessary to the enjoyment of a right given or the enforcement of a duty imposed. That a right granted by a constitutional provision may be better or further protected by supplementary legislation does not of itself prevent the provision in question from being self-executing, nor does the self-executing character of the constitutional provision necessarily preclude legislation for the protection of the right secured. A constitutional provision, which is merely declaratory of the common law, is self-executing. A constitutional provision designed to remove an existing mischief should never be construed as dependent for the efficacy and operation on legislature.
>
> Constitutional provisions are not self-executing, it they merely indicate a line of policy or principles, without applying the means by which such policy or principles are to be carried into effect, or if the language of the Constitution is directed to the legislature, or it appears from the language used and the circumstances of its adoption that subsequent legislation was contemplated to carry it into effect. Provisions of this character are numerous in all Constitutions and treat of a variety of subjects. They remain inoperative until rendered effective by

> supplemental legislation. The failure of the legislation to make suitable provision for rendering a clause effective is no argument in favour of self-enforcing construction of the clause. Self-enforcing provisions are exceptional.
>
> The question, whether a constitutional provision is self-executing, is always one of intention, and to determine intent, the general rule is that courts will consider the language used, the object to be accomplished by the provision, and surrounding circumstances. Extrinsic matters may be resorted to where the language of the Constitution itself is ambiguous.
>
> *[emphasis supplied]*

A passage, in the 10th Edn. of NS Bindra's Interpretation of Statues, has dealt with self-executing provisions relating to fiscal legislations, which is also reproduced being relevant to the subject of this judgment:-

> "A constitutional provision authorising the levy of a tax is without effect, unless provision for such levy is made by the legislature, but, it fully supplemented by legislation in force at the time of its adoption, it takes effect at once. A provision requiring the legislature to levy a tax at a certain rate has been held self-executing. Provisions that property shall be assessed for taxes under general law and by uniform rules according to its value are self-executing. Moreover, a provision has been held self-executing, which authorised the levy by local officers of a tax to an amount and for purposes specified, subject to compliance with conditions fully stated therein. A constitutional provision limiting the rate of taxation does not require legislative action to enforce it and goes into effect at once, unless it appears from a consideration of the whole instrument that it was the intent of the framers to postpone the operation of the provision until action by the legislature.
>
> Provisions authorising municipal authorities to levy taxes, providing for an increase in the rate in taxation on submission to a vote of the taxpayers, or for assessments by a jury or by commissioners, requiring the legislature to provide a uniform system of taxation, declaring that all taxes shall be uniform to be collected under general laws, declaring that all property shall be taxed in proportion to its value, 'to be ascertained as provided by law,' providing for the payment of certain taxes into the common school fund and for their distribution, declaring that certain kinds of property shall be taxable as provided by law, requiring provision to be made by general laws to prevent the abuse by municipal corporations of the powers of taxation and contracting debts and provisions for the collection of taxes without suit are not self-executing and require supplemental legislation to render them effective. A provision fixing the minimum amount at which patented mining

> claims shall be assessed is self-executing. Constitutional provisions declaring certain classes of property exempt from taxation are self-executing; but provisions authorising the legislature to exempt specified classes of property, or requiring the exemption of certain property from taxation by general law, are not operative until such legislation is enacted. In all of the cases on this subject, if it appears from the provision that anything remains to be done to complete the objects contemplated, it is to that extent is inoperative, and will remain so until all such requirements are complied with."
>
> *[emphasis supplied]*

Supreme Court of United States in *SOSA v. Alvarez-Machian ET AL* **[542 U.S. 692 (2004)]**, held that substantive provisions of '*International Covenant on Civil and Political Rights*' are not self-executing because United States ratified the Covenant on the express understanding that it was not self-executing and so did not itself create obligations enforceable in the federal courts. In another judgment *South-Central Timber Development, Inc. V. Wunnicke, Commissioner, Department of Natural Resources of Alaska, ET AL.* **[467 U.S. 82 (1984)]**, the Commerce Clause in American Constitution was interpreted as self-executing, while limiting the power of States to legislate, which caused burden on interstate and foreign commerce, relevant excerpt is reproduced:-

> "Although the Commerce Clause is by its text an affirmative grant of power to Congress to regulate interstate and foreign commerce, the Clause has long been recognized as a self-executing limitation on the power of the States to enact laws imposing substantial burdens on such commerce."

Though the noted references have dealt mostly with the constitutional provisions, yet NS Bindra has quoted references where the discussed Rules of interpretation are applied on statutory provisions as well. It is recapitulated that a provision is self-executing if rights granted or duties imposed are enforceable in absence of any supplementary legislation; in other words if manifest intention is found in language of the provision that power conferred should go into immediate effect and no ancillary legislation is necessary, then the provision is

self-executing. The provision is not self-executing if it indicates merely a line of policy or principles, without giving means by which such policy or principles are to be carried into effect, or it is directed in the provision for framing of Rules through delegated powers to enforce the rights, duties or powers given therein.

8. In *Jahangir Mirza v. Government of Pakistan* **(PLD 1990 SC 1013)** the Apex Court reiterated its earlier decision given in *M. U. A. Khan v. Rana M. Sultan and another* **(PLD 1974 SC 228)**, holding that non-framing of Rules does not render a Statute as a nugatory or unworkable unless the legislation indicates an intention to this effect in clear and unmistakable term, relevant excerpt from the judgment in M. *U. A. Khan's Case* (*ibid*) is reproduced hereunder:-

> "It is universally recognised that as regulatory statutes have to deal with a variety of situations and subjects, it is not possible for the Legislature itself to make detailed regulations concerning them, and, therefore, the Legislature delegates its power to specified or designated authorities to make such detailed regulations, consistent with the statute, for carrying out the purposes of the parent legislation. The power so conferred is generally in the nature of an enabling provision, intended to further the object of the statute, and not to obstruct and stultify the same. As a consequence, the failure or omission of the designated authority to frame the necessary rules and regulations, in exercise of the power conferred on it by the Legislature, cannot be construed as having the effect or rendering the statute nugatory and unworkable. Such an eventuality could arise only if the Legislature indicates an intention to this effect in clear and unmistakable terms."
>
> [emphasis supplied]

For what has been discussed above, the arguments by petitioner's side fail on this ground. Perusal of the Sections 72B, 214C and 42B of the Federal Taxing Statues, in light of discussion *supra* shows that these are self-executing provisions because, the power and manner of exercising the power has been provided therein, without use of any word showing intention for further/subordinate legislation to carry out the

selection. FBR has been empowered to select persons or classes of persons for audit through computer ballot, with additional discretion that the ballot may be parametric or random as the Board may deem fit.

9. Nevertheless, the discretionary powers, even under a self-executing provision, need to be structured to ensure just, fair and transparent exercise of discretionary powers, because it has so been ordained by Apex Court of this Country in *Amanullah Case* (*supra*), *Government of NWFP through Secretary and 3 others v. Majee Flour Mills (Private) Limited* **(1997 SCMR 1804)**, and *Muhammad Amin Muhammad Bashir Limited v. Government of Pakistan through Secretary Ministry of Finance, Central Secretariat, Islamabad and others* **(2015 SCMR 630)**, which in view of Article 189 of the Constitution is declared law of the land. The directions in the DHA Case, which are termed as *obiter dictum* by respondents side, were given on the strength of August Court's authoritative pronouncements, therefore, were and are binding on FBR and authorities subordinate to it. Failure on part of FBR to regulate the discretionary powers may not render the exercise of the power as illegal *ab initio*, yet Courts would tend to intervene if the exercise of discretionary power appears to be arbitrary and capricious.

10. Before examining whether the selection in question was made after structuring discretion through Audit Policy 2015, relevant portion from the *DHA Case* is reproduced for reference:-

> "Nevertheless, power of FBR to select for audit is not unbridled, the discretion has to be exercised justly, fairly and in transparent manner. The Apex Court in Government of NWFP through Secretary and 3 others v. Majee Flour Mills (Private) Limited **(1997 SCMR 1804)**, while following its earlier decision in Amanullah Khan and others v. The Federal Government of Pakistan through Secretary, Ministry of Finance, Islamabad and others **(PLD 1990 SC 1092)**, has reiterated the doctrine of "***structuring the discretion***".

Doctrine of structuring discretion was explained in Amanullah Khan's case, in following words:--

> "structuring discretion only means regularizing it, organizing it, producing order in it so that decision will achieve the high quality of justice."

Seven instruments were highlighted, which are useful to structure discretionary power i.e. ***"open plans, open policy statement, open rules, open findings, open reasons, open precedents and fair in formal procedure"***. Framing of Rules to regulate the discretionary power was emphasized. The expression of Hon'ble Court is reproduced:--

> "the wide-worded conformant of discretionary powers of reservations of discretion, without framing rules to regulate its exercise, has been taken to be an enhancement of power and it gives that impression in the first instance but where the authorities fail to rationalize it and regulate it by Rules, or Policy statement or precedents, the Courts have to intervene more often, than is necessary, apart from the exercise of such power appearing arbitrary and capricious at times."

Needless to say that FBR is bound to structure the discretion vested in it under Section 214C of the Ordinance and under parallel provision of Sales Tax Act, 1990 and Federal Excise Act, 2005. Federal Government, so far, has not been able to frame Rules to regulate FBR's discretion and FBR has not given any procedure. A taxpayer, selected for audit is left on the mercy of an unskilled audit officer for conducting audit. I am constrained to observe that FBR's tax year based selection for audit is tainted with an intention to achieve budgetary targets, therefore, is creating panic amongst the taxpayers, who are rushing to Courts after their selection. One of the reasons for challenging each case of selection under audit appears that department has not come out of the mind set of assessment under the Repealed Ordinance of 1979. After selection of taxpayers, the additions are made on gross-profit and parallel cases basis. Even estimations are made, which are alien to the new concept of amending assessment under Ordinance of 2001.

It is reiterated that primary object of audit is to create deterrence for the taxpayers. Taxpayers, besides having confidence in audit procedures, should believe that they would be penalized and subjected to additional tax, if wrong declaration is detected in an audit of their six year's record. Taxpayers should be made to believe that their case shall surely be selected for audit at least once in six years. Taxpayers can even be given an option to volunteer for audit. As ordained by Hon'ble Supreme Court, in the referred cases, FBR needs to frame Rules, keeping in view the doctrine of ***"structuring the discretion"***. If FBR fails to rationalize and regulate powers of selecting and conducting audit through

> Rules, the Courts might intervene more often than is necessary to undo an exercise of power, appearing arbitrary and capricious at times.''
>
> *[emphasis supplied]*

11. In the *DHA Case* judgment, two aspects of audit were discussed; one is selection for audit and the second is conducting of audit. Provisions relating to selection for audit are examined and held self-executing, therefore, the selection cannot be reversed, unless the exercise of power is found colourable, capricious or arbitrary. However, procedure for conducting audit, given in respective provisions under the Federal Taxing Statues, is not elaborative. Under subsection (1) of Section 177 of the Ordinance of 2001, Commissioner is authorized to call for record or documents including books of accounts for conducting audit. Its subsection (2) gives power to conduct audit by '*examination of accounts and records, enquiry into expenditure, assets and liabilities*'. Under subsection (3) of Section 177, the Commissioner, after completion of audit, is to seek explanation of the taxpayer on the issues raised during audit and proceed to amend the assessment under Section 122, if explanation is found unsatisfactory. Similar powers and brief procedure is given under corresponding provisions of other two Federal Taxing Statutes i.e., Section 25 of the Act of 1990 and Section 46 of the Act of 2005.

12. The direction to frame rules for conduct of audit was based on the observations that a taxpayer lacks confidence in tax administration and believes that the selection is meant only for raising demand. The trust deficit is depicting even in the instant petitions as different parts of the impugned 'Tax Policy 2015' were read to show manifest intention of raising demand to meet the budgetary targets. It is also an undeniable fact that FBR is unable, so far, to raise its capacity to conduct audit, in given period, through trained audit officers. It is judicially

noticed, in number of other cases, that record is called for audit after delay of more than a year from selection for audit. The untrained audit officers, having mind set of assessment under repealed laws, are dropping the audit proceedings, if a taxpayer, not willing to get his tax affairs audited, agrees to raise his payable tax by certain percentage.

In this backdrop of facts, framing of rule is necessary to organise, regulate and produce order in conduct of audit. Both, the audit officer and the taxpayer, should have a prior knowledge about a uniform procedure and manner to be adopted for audit and its object.

13. The state of affairs, examined in this case, show that FBR does not understand the concept of audit and modern approach to achieve its objects. The word or concept of audit has not, specifically, been defined in any of the three Federal Taxing Statutes, therefore, to interpret it, external aid of dictionary meaning and text books needs to be resorted. The words 'audit' and 'tax audit' are defined in Black's Law Dictionary, 9th Edn. (p.150), in following words:-

> **Audit** __ "A formal examination of an individual's or organization's accounting records, financial situation, or compliance with some other set of standards."
>
> **Tax Audit** ___ "The review of a taxpayer's return by the IRS, including an examination of the taxpayer's books, vouchers, and records supporting the return."

Conceptually, Audit provides third party assurance to various stakeholders that the subject matter is free from material misstatement. Semantically, the word 'audit' is derived from a Latin word "*audire*" which means "*to hear*". And historically, during the medieval times in Britain, the auditor on landed estates used to hear the accounts read out and checked on the lord's behalf that his steward had not been negligent or fraudulent (*"A History of Auditing" by Derek Matthews p.6*).

To understand the concept of audit, selection for audit and conducting of audit, sizable information is found available on different websites. Two documents issued; one by *International Monetary Fund* **("IMF")** and the other by *Organization For Economic Co-operation and Development* **("OECD")** were consulted. These documents become relevant and important, because FBR's plans and activities are considered by IMF while extending loans to the Government of Pakistan. And covenant of OECD has recently been signed by Pakistan.

14. The document issued by IMF is titled *"Taxpayer Audit -- Development of Effective Plans"*. After highlighting the scope and importance of tax audit, some guidelines and standards are given for development of an Effective Audit Program. An excerpt from the document on "Value of Audit Planning" is reproduced:-

> "**What Is the Value of Audit Planning?**
>
> **The role of audit extends beyond verification.** It is generally accepted that a tax audit is an examination to determine whether a taxpayer has correctly reported and assessed their tax obligations. However, the role of an audit program in a modern tax administration must extend beyond merely verifying a taxpayer's reported obligations and detection of discrepancies between a taxpayer's declaration and supporting documentation.
>
> **A well managed audit program plays a major role in managing compliance.** An effective audit program will have significantly wider impacts than just raising revenue directly from audit activities. By selecting the highest risk cases, efficiently detecting non-compliance, applying appropriate sanctions, and publicizing results of audit activity (either generally or specifically), taxpayers are put on notice that attempting to avoid tax will result in a high likelihood of detection and imposition of significant sanctions. Thereby, a well planned audit program can provide the administration with significant leverage across the community rather than only impacting on the taxpayer selected for audit and collecting the tax that should have been paid in the first place. Additionally, a tax system that is perceived to be fair and equitable by punishing taxpayers who do not comply builds community confidence and encourages compliance from the broader

population as compliant taxpayers support the administration's efforts to deal with non compliance.

The impact of an effective audit should be seen in terms of the following effects:

- Corrective – making adjustments to rectify instances of non compliance.
- Deterrent – influencing the behavior of the audited taxpayer or group of taxpayers to be compliant in future.
- Preventative – persuading the broader community to comply.

A well structured audit program plays an important part in improving the effectiveness of other parts of the administration. As well as detecting and addressing non-compliance, audit can provide valuable support in the following areas:

- **Information and Intelligence.** By having extensive access to the business community, the audit program can gain a lot of information and intelligence that may inform the revenue administration of practices that may be jeopardizing compliance and revenue collection. This information is critical to the development of appropriate treatment strategies in other parts of the administration, for example, taxpayer service, policy and legislation, collections and filing and payment enforcement, issuing taxpayer alerts, as well as influencing the selection of future audit and investigation cases.
- **Addressing deficiencies in the law.** Auditors will often detect taxpayer practices that exploit weaknesses in the law. Although not classified as evasion, these systemic avoidance practices may actually undermine the original intent of the relevant laws. Instances should be escalated to policy and legislation managers to address the issues through amending legislation. Furthermore, if auditors observe recurring patterns of avoidance, it may indicate inappropriate penalty provisions that may need to be amended to provide an adequate deterrent.
- **Law clarification and education.** The audit program also plays an important part in clarifying the law and educating taxpayers on appropriate compliance measures, such as legal filing requirements, deductibility of expenses, and improved record keeping. As well as providing direct guidance to taxpayers during audit activity, the audit program should refer common areas of non-compliance to the taxpayer services program managers so that they can be addressed in wider taxpayer education initiatives.

The trend to self assessment has increased the importance of the audit program. The spread of VAT has increased the dependence of administrations on self assessment and there has been general trend to adopt the

> same approach to the administration of income tax. Given the role of audit in influencing compliance and the significant proportion of an administration's resources devoted to the audit function, it is critical that audit activities are driven by well designed plans that will deliver improved compliance. Effective planning is required to ensure that the audit program is adequately developed to: (1) focus on and address the most significant risks; (2) target non-complaint taxpayers and not harass compliant taxpayers; (3) make optimal use of limited resources, and (4) influence compliance across the broader taxpayer community.
>
> **Publicizing audit programs can influence compliance behavior.** Administrations are increasingly releasing compliance plans to alert taxpayers as to risk areas or issues that are causing concern and what action (including audit) is being taken to address the concerns. Although not publishing the whole audit plan, the practice of highlighting risk areas and the number of audits being conducted in specific market segments and industry sectors alerts taxpayers to risks of non compliance."
>
> [emphasis supplied]

15. The document published by OECD is captioned as *"Compliance Risk Management: Audit Case Selection Systems"*. Information in this document consists of number of case study from member countries. It seeks to illustrate the application of compliance *'risk management techniques'* in the audit cases selection processes. Assistance of revenue authorities from member countries, across the world, including Australia, Japan, Germany, United Kingdom and United States, is acknowledged in it.

Besides giving case studies of different countries, it focuses on Key Requirements in an Effective Case Selection Process. The information in introduction and explaining Role of Audit, being relevant to the subject of this case is reproduced:-

> "**INTRDUCTION**
>
> 1. The primary goal of a revenue authority is to manage and improve overall compliance with the tax laws, and in the process sustain confidence in the tax system and its administration. The actions of taxpayers, whether due to ignorance, carelessness, recklessness, or deliberate evasion, or weaknesses in administration mean that instances of failure to comply with the law are inevitable?

To the extent that such failures occur, governments, and in turn the communities they represent, are denied the tax revenues they need to provide services to citizens.

2. Historically these failures, or compliance risks, have been addressed only in terms of enforcement through an audit-based approach and the case studies in this note reflect that emphasis.

3. But, whilst audit remains a fundamental and necessary approach to addressing non-compliance, the examples given in this note recognize that the factors underlying taxpayers' compliance behavior in any specific risk area are frequently quite complex and, as a result, are unlikely to be treated successfully with a 'single action' strategy – particularly one based solely on verification and enforcement action. In this regard, the guidance encourages revenue authorities to give greater attention to understanding the factors that shape taxpayers' compliance behavior so that a potentially more effective set of responses – ones that deal with the underlying non-compliant behavior rather than focusing on treating the symptoms – can be crafted and implemented."

"**Role of Audit within Compliance Risk Management.**

7. It is a key facet of compliance risk management techniques that the treatments for identified risks fit well together (within the operational context of each Administration). The treatments should include both proactive and reactive strategies and they should cover all relevant taxes in an integrated manner. Furthermore, a good treatment will often include a suite of strategies rather than a single approach recognizing the differing drivers for non-compliance.

8. Audit has in the past been the sole treatment for compliance risk available to administrations and will continue to play a key role in the development of more integrated strategies. It can be defined as any treatment that requires the active review of the records on which tax returns and computations have been based, from the twin standpoints.
    - do the records fairly reflect the full activities of the taxpayer; and
    - do the calculations properly comply with technical tax regulations?
9. Although the focus on flexible and coordinated response to risk is highlighting the value and effectiveness of many forms of non-audit intervention, audit will continue to play a key role in responses to non-compliance:
    - audit is the strategy that allows administrations to exercise effective sanctions and to deal with those

towards the top of the 'Compliance Pyramid' by enforcing compliance;

- audit acts as a public sanction making the extent of the Administration's enforcement powers visible within the community and thus encouraging others to comply;
- the data gathered during audit is an essential building block in the appreciation of compliance risk and the devising of appropriate treatments.

10. So the effects of a successful audit programme are not limited to the direct effects of each individual action (in terms of additional duties, interest or penalties, and enforced compliance). There are clear, and in many ways more important, indirect effects from Audit programmes in terms of maintaining levels of compliance. These effects are described as:
    - a corrective effect – persuading individual customers to move further towards the bottom of the compliance pyramid.
    - a deterrent effect – persuading customer groups that it is in their interests to be more compliant.
    - An indirect preventive effect – the perceived deterrent effect that audits have on others.

11. Thus, the audit programme underpins substantial levels of voluntary compliance and contributes to the developing work on other methods of influencing customer behaviour."

[emphasis supplied]

16. The Audit remains, for modern Tax Administration, a fundamental and necessary approach to address non-compliance issues. Its scope has traveled beyond mere verification of correct reporting by the taxpayers and raising revenue directly from audit activities. Besides creating deterrence by punishing the defaulting taxpayer, an effective audit program pinpoints noncompliant trends; defects in system, ambiguities in practice and the law. On the basis of gathered information and intelligence from an effective audit, and its publication, future Tax Administration can be reshaped; necessary steps can be taken to suggest curative legislation and clarifications of ambiguous practices. The gathered information can also be used to scrutinize record of the taxpayers, not selected for audit, for recovery of evaded tax by invoking respective provisions of the Federal Taxing Statutes e.g., Section 122 of the Ordinance of

2001, Section 11 of the Act of 1990 and Section 14 of the Act of 2005. And last but not the least, the results achieved from effective audit program may help to improve risk management techniques and determine 'Parameters' for future selection of high risk cases for audit.

17. The Audit Policy 2015, impugned in these petitions, is examined in the backdrop discussed *ibid*, arguments by petitioner's side and response by respondent's side. The scope, aims and objects of audit, written in first two parts of the impugned Policy, appear to be mere phraseology and rhetorical in nature because these are not reflecting, substantially, in later parts (3 to 6) of the impugned Policy:

The "*Foreword"* of the Policy speaks about settling disputes through an institutionalized mechanism but the Policy itself is silent about it. Even the Rules, made during proceedings, are not providing for any remedy against wrong selection or grievance during conduct of audit. Mr. Sarfraz Ahmad Cheema, Advocate, when confronted with this anomaly, submitted on instructions, that remedy is available under Section 7 of Federal Board of Revenue Act, 2007 and that non-mentioning of same is an omission. The Section 7 is reproduced for facility:-

> "**7. Representation to the Chairman.-** (1) Any person aggrieved by any action done or taken for the enforcement of the fiscal laws or due to any act of maladministration, corruption and misbehavior by any officer or employee of the Board or any unnecessary delay or hardship caused due to any administrative process may prefer representation to the Chairman for redressal of his grievance.
>
> (2) The Chairman or the Board or any other designated officer, as the case may be, on behalf of the Chairman, shall take the appropriate action to redress such grievance."

Clause 2.3, under the caption "SCOPE", tells that procedure and guidelines shall be set out for processing of cases after selection, whereas clause 3.13, under caption

"METHODOLOGY", says that Income Tax Manual Part-V and Sales Tax Audit Hand Book may be consulted. This contradiction was also confronted to Mr. Sarfraz Ahmad Cheema, Advocate, who again on instructions, submitted that the word 'may' be read as 'shall'. Clause 3.12 is ambiguous because the selected case is to be assigned, by Commissioner, to a team of audit headed by an officer of appropriate level, which shows that audit officers or audit wing has not, so far, been designated. Clause 3.15 says that discrepancies found in audit must be communicated to the taxpayer before finalizing the audit but practice shows that audit is completed without preparation or issuance of Audit Report. No time frame for completion of audit is given in the Policy in unequivocal language, as clause 3.19 says that cases are expected to be completed during a financial year. The Policy speaks about sector studies to determine risk factors and bench marks, in clause 3.8, but no such report, after completion of audit has ever been published by FBR. By referring to clause 5.2, the petitioners' side argued that audit officers are persuaded to create more and more demand. Clause 5.2 is captioned as "*Qualitative Indicators*", wherein twelve indicators are mentioned and in nine indicators words '*demand*' and '*collection*' are used. It definitely shows FBR's bent of mind and expected response of the audit officers. These indicators are against the spirit and scope of audit as discussed *supra*.

18. Role of audit officer is to dig out the instances of tax evasion and non-compliance to the statutory provisions causing tax evasion. His role finishes on issuance of Audit Report, after seeking explanation, based on which further action is to be taken by an officer having *quasi-judicial* power of adjudication. The audit proceedings, being inquisitorial and administrative in nature are akin to function of prosecution in criminal cases,

which finishes by preparation and submission of '*Challan'*. Under the Federal Taxing Statutes, the unsatisfactory reply to the explanation sought by audit officer becomes an 'information' or 'definite information' based on which show cause notice is issued to initiate *quasi-judicial* proceedings. Taxpayer has option, either to accept the confronted discrepancies/allegations and pay tax with concessionary penalty rates or to contest by filing reply to show cause notice. Thereafter, process of adjudication starts, which is to be followed by a speaking and reasoned order. Asking an audit officer to raise demand and making monthly collection through qualitative indicator is alien to the scope and concept of audit. Any plea bargain to drop audit proceedings, if certain percentage of extra tax is paid, is against the provisions, in Federal Taxing Statutes, dealing with audit. Selection for audit cannot and should not allowed to be used for raising revenue simpliciter, without conducting any audit and preparation of Audit Report. It is reiterated that audit, necessarily, is administrative in nature, which starts by selection for audit and ends on issuance of "Audit Report" after seeking explanation from the taxpayer. Issuance of "Audit Report" is *sine qua non* for completion of audit proceedings under respective provisions of the Federal Taxing Statues. To maintain separation between administrative and judicial powers, as envisaged in Article 175 (3) of the Constitution of 1973, it is necessary that *quasi-judicial* proceedings be carried out by a taxation officer other than audit officer who conducted the audit because adjudication and audit are separate proceedings under the Federal Taxing Statues. The intent of legislature is to provide another opportunity of being defended to the taxpayer by responding to the show cause notice. Needless to say that procedural standards, under judicial or *quasi-judicial* proceedings, are different from standards of administrative proceedings. Audit is

an inquiry/investigation of the tax affairs and adjudication needs to satisfy the requisites of fair trial as guaranteed to the taxpayer under Article 10A of the Constitution.

19. To keep an audit proceedings pending beyond the period given in Audit Policy means; either FBR is not interested to conduct audit or lacks capacity to audit in the given period. A sword of being audited cannot be allowed to hang over a taxpayer for an unspecified period. Such exercise of power is indeed arbitrary and gives room to capriciousness, like dropping the selection if payable tax is enhanced by the taxpayer.

During proceedings of this case, interim relief was granted to the petitioners in following words;

> "Meanwhile, Board may continue with audit proceedings. However, no further step after confronting audit report shall be taken i.e., proceedings under Section 122(9) of the Income Tax Ordinance, 2001, under Section 11 of the Sales Tax Act, 1990 and under Section 14 of the Federal Excise Act, 2005 shall not be initiated."

No stay was granted against audit proceedings, however, subsequent proceedings under respective Federal Taxing Statutes were stopped, for which limitation of about six years is available. The audit was intended to be carried out under Court's supervision, however when inquired, during proceedings, the FBR could not show satisfactory figures of completed audits. It was pleaded that taxpayers did not cooperate for completion of audit. When confronted that ample power is available to penalize or proceed against a noncompliant taxpayer, the reply was still unsatisfactory. Since no cut of date for completion of audit is given in the Audit Policy and matter remained under litigation to the extent of petitioners, therefore, the authorities under FBR shall complete pending audits till 30.06.2017 and in case of failure the selection for audit shall be deemed to have been dropped.

20. Some other arguments by petitioner's side were also considered but found not convincing:

Mr. Imtiaz Rashid Siddiqui Advocate argued that Federal Finance Minister could not have pressed computer button to start the process of selection through random ballot, because FBR had delegated powers of selection to Member Audit. Suffice it to say that pressing of button to start ballot process is a ceremonial act and does not take away the delegated powers from Member Audit.

Random selection though computer ballot was challenged for alleged lack of transparency and fairness by M/s Mansoor Usman Awan, Sirdar Ahmad Jamal Sukhera and Nadeem Ahmad Sheikh Advocates. Reliance for this assertion was placed on results of the selection stating that some of the sectors are selected ninety to hundred percent. An expert from FBR appeared and explained the procedure adopted for random selection through computer ballot. Mr. Asjad Saeed Advocate, appearing for respondent's side, submitted that no evidence was produced to substantiate that any malpractice was adopted or any extraneous instructions were given to the computer.

After insertion of Article 19A in the Constitution, disclosure of information is fundamental right of every citizen, therefore, basis for selection by FBR for Audit is no exception. However the expert sufficiently explained the procedure before Court and no perversity or malpractice was found. Results of random selection alone are not enough to establish any malpractice. Even otherwise, FBR has been given sufficient power to select *'person or classes of persons'*, hence selection of one business sector through computer ballot is not in excess of the mandate given to FBR.

Mr. Navid A. Andrabi Advocate argued that after exclusion of non-filers, percentage of selected filers has

increased. Rana Munir Hussain Advocate argued that exclusion of non-filers is against the spirit of Section 177 of the Ordinance of 2001.

Exclusion of non-filer cannot be a ground to hold the selection of filers as illegal. The language used in the Section 177 i.e., '*for conducting audit of the income tax affairs of the person*' does not bar selection of filers by the FBR under Section 214C of the Ordinance of 2001. Nor does selection of filers only constitute any discrimination because the filers are an independent class based on intelligible differentia. Since selection of a non-filer, by Commissioner, for audit of income tax affairs is not subject matter of these petitions, therefore, this issue shall be considered in some other case.

21. To sum up the discussion, *supra*, it is held that State has a right to audit; corresponding to taxpayer's duty to make correct declarations and comply with the statutory commands under three Federal Taxing Statutes. Selection for and conduct of audit is not *ex facie* detrimental to the interest of taxpayer, however to exercise such powers; the discretion needs to be structured by framing rules and issuance of policies for ensuring consistency and certainty of procedures; transparency and fairness.

FBR shall rectify the defects pointed out, hereinbefore, in the impugned Audit Policy 2015 and in the policies to be issued in future. Following directions shall be read and incorporated in the rules or policies:

- A taxpayer selected and audited in preceding tax year/ period shall not be selected and audited without giving reasons for such selection. FBR shall enhance its capacity to audit a selected taxpayer for last five years to give respite from consecutive selections.

- Audit, being administrative proceedings, shall complete on issuance of Audit Report. If audit is not completed within the given time frame, the selection shall be deemed to have been dropped. After issuance of Audit Report; adjudication proceedings shall be carried out by some other taxation officer to satisfy command of the Constitution under Article 10A.
- After selection for audit, any demand for increase in payable tax to drop audit proceedings is not only against the scope and spirit of audit but is in violation of the provisions relating to audit under the Federal Taxing Statutes as well.
- The audit shall be conducted in accordance with "Income Tax Manual Part V" and "Sales Tax Audit Hand Book" and such procedure for conduct of audit shall be incorporated in the Rules for Selection and Conduct of Audit.
- Remedy against any grievance, regarding selection or conduct of audit, under Section 7 of FBR Act, 2007 shall, henceforth, be read as part of every Audit Policy and its procedure is directed to be incorporated in the Rules for Selection and Conduct of Audit.
- The decision, directions and observations made in this judgment shall be followed while implementing the impugned Audit Policy 2015 and future audit policies.

22. The petitions are allowed in the manner and to the extent noted in this judgment.

If any Petitioner is not dealt in accordance with law, he may approach Chairman, Federal Board of Revenue under Section 7 of the FBR Act, 2007 and the Chairman shall decide the representation through speaking order keeping in view the

law discussed and laid down in this judgment and by superior Courts in other judgments.

23. This judgment shall also decide following writ petitions:-

Sr. No.	Case No.	
1.	W. P.	32722 of 2015.
2.	W. P.	33990 of 2015.
3.	W. P.	34063 of 2015.
4.	W. P.	34066 of 2015.
5.	W. P.	34067 of 2015.
6.	W. P.	34068 of 2015.
7.	W. P.	34213 of 2015.
8.	W. P.	34285 of 2015.
9.	W. P.	34378 of 2015.
10.	W. P.	34527 of 2015.
11.	W. P.	34558 of 2015.
12.	W. P.	34711 of 2015.
13.	W. P.	34779 of 2015.
14.	W. P.	35032 of 2015.
15.	W. P.	35034 of 2015.
16.	W. P.	35085 of 2015.
17.	W. P.	35086 of 2015.
18.	W. P.	35161 of 2015.
19.	W. P.	35164 of 2015.
20.	W. P.	35166 of 2015.
21.	W. P.	35177 of 2015.
22.	W. P.	35265 of 2015.
23.	W. P.	35268 of 2015.
24.	W. P.	35269 of 2015.
25.	W. P.	35337 of 2015.
26.	W. P.	35399 of 2015.
27.	W. P.	35488 of 2015.
28.	W. P.	35491 of 2015.
29.	W. P.	35554 of 2015.
30.	W. P.	35583 of 2015.
31.	W. P.	35646 of 2015.
32.	W. P.	35656 of 2015.
33.	W. P.	35734 of 2015.
34.	W. P.	35735 of 2015.
35.	W. P.	35738 of 2015.
36.	W. P.	35739 of 2015.
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38.	W. P.	35742 of 2015.
39.	W. P.	35743 of 2015.
40.	W. P.	35771 of 2015.
41.	W. P.	35774 of 2015.

42.	W. P.	35776 of 2015.
43.	W. P.	35793 of 2015.
44.	W. P.	35830 of 2015.
45.	W. P.	35907 of 2015.
46.	W. P.	35937 of 2015.
47.	W. P.	35965 of 2015.
48.	W. P.	35967 of 2015.
49.	W. P.	35968 of 2015.
50.	W. P.	36016 of 2015.
51.	W. P.	36017 of 2015.
52.	W. P.	36036 of 2015.
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54.	W. P.	36048 of 2015.
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63.	W. P.	36078 of 2015.
64.	W. P.	36082 of 2015.
65.	W. P.	36083 of 2015.
66.	W. P.	36117 of 2015.
67.	W. P.	36118 of 2015.
68.	W. P.	36141 of 2015.
69.	W. P.	36146 of 2015.
70.	W. P.	36148 of 2015.
71.	W. P.	36149 of 2015.
72.	W. P.	36170 of 2015.
73.	W. P.	36185 of 2015.
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80.	W. P.	36369 of 2015.
81.	W. P.	36447 of 2015.
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93.	W. P.	36579 of 2015.
94.	W. P.	36603 of 2015.
95.	W. P.	36606 of 2015.
96.	W. P.	36624 of 2015.
97.	W. P.	36636 of 2015.
98.	W. P.	36639 of 2015.
99.	W. P.	36642 of 2015.
100.	W. P.	36643 of 2015.
101.	W. P.	36682 of 2015.
102.	W. P.	36683 of 2015.
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111.	W. P.	36740 of 2015.
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114.	W. P.	36745 of 2015.
115.	W. P.	36812 of 2015.
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117.	W. P.	36856 of 2015.
118.	W. P.	36866 of 2015.
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120.	W. P.	36887 of 2015.
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123.	W. P.	36941 of 2015.
124.	W. P.	36947 of 2015.
125.	W. P.	36950 of 2015.
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229.	W. P.	37757 of 2015.

230.	W. P.	37761 of 2015.
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775.	W. P.	20639 of 2016.
776.	W. P.	20653 of 2016.
777.	W. P.	20699 of 2016.
778.	W. P.	20884 of 2016.
779.	W. P.	20985 of 2016.
780.	W. P.	20987 of 2016.
781.	W. P.	21023 of 2016.
782.	W. P.	21079 of 2016.
783.	W. P.	21080 of 2016.
784.	W. P.	21117 of 2016.
785.	W. P.	21120 of 2016.
786.	W. P.	21122 of 2016.
787.	W. P.	21123 of 2016.
788.	W. P.	21124 of 2016.
789.	W. P.	21125 of 2016.
790.	W. P.	21132 of 2016.
791.	W. P.	21202 of 2016.
792.	W. P.	21204 of 2016.
793.	W. P.	21209 of 2016.

794.	W. P.	21384 of 2016.
795.	W. P.	21385 of 2016.
796.	W. P.	21461 of 2016.
797.	W. P.	21540 of 2016.
798.	W. P.	21544 of 2016.
799.	W. P.	21640 of 2016.
800.	W. P.	21696 of 2016.
801.	W. P.	21872 of 2016.
802.	W. P.	21922 of 2016.
803.	W. P.	22013 of 2016.
804.	W. P.	22016 of 2016.
805.	W. P.	22225 of 2016.
806.	W. P.	22249 of 2016.
807.	W. P.	22271 of 2016.
808.	W. P.	22349 of 2016.
809.	W. P.	22353 of 2016.
810.	W. P.	22359 of 2016.
811.	W. P.	22603 of 2016.
812.	W. P.	22629 of 2016.
813.	W. P.	22746 of 2016.
814.	W. P.	22881 of 2016.
815.	W. P.	23952 of 2016.
816.	W. P.	26342 of 2016.
817.	W. P.	26643 of 2016.
818.	W. P.	27493 of 2016.
819.	W. P.	27656 of 2016.
820.	W. P.	29024 of 2016.
821.	W. P.	29025 of 2016.
822.	W. P.	30475 of 2016.
823.	W. P.	36764 of 2016.
824.	W. P.	37946 of 2016.
825.	W. P.	38087 of 2016.
826.	W. P.	38661 of 2016.
827.	W. P.	39205 of 2016.
828.	W. P.	39562 of 2016.

(Shahid Jamil Khan)
Judge

Announced in Open Court on 09.01.2017.

Judge

APPROVED FOR REPORTING.

A.W. Judge