

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL, CJ  
MR. JUSTICE MUHAMMAD ALI MAZHAR  
MRS. JUSTICE AYESHA A. MALIK

**CIVIL APPEAL NO.1275 OF 2009 AND  
C.M.A. NO.6731 OF 2018**

(On appeal from the judgment dated 09.02.2005 passed by the High Court of Sindh at Karachi in I.T.A.No.915/1999)

**AND CIVIL APPEALS NO.1292 TO 1296 OF  
2009 AND CIVIL APPEAL NO.227 OF 2011**

(On appeal from the judgments dated 15.04.2008 & 22.06.2009 passed by the Lahore High Court, Multan Bench, Multan in T.R.No.3, 4, 5, 6, 7 & 8/2008)

The Commissioner of Income Tax, Companies  
Zone-II, New Income Tax Building, Shahrah-e-  
Kamal Attaturk, Karachi and another

(In C.A. No.1257/2009)

The Commissioner of Income Tax/Wealth Tax,  
Multan Zone, Multan

(In C.A. Nos.1292-  
1296/2009 & 227/2011)

...Appellants

**Versus**

M/s Pak Saudi Fertilizers Ltd., Karachi  
through M.D.

(In C.A. No.1257/2009)

M/s Pak Arab Fertilizers (Pvt.) Ltd., Multan

(In C.A. Nos.1292-  
1296/2009 & 227/2011)

...Respondents

For the Appellants:

Dr. Shah Nawaz, ASC  
(In C.A. No.1275/2009 via video link from Karachi)

Mr. Zafar Iqbal Chaudhry, ASC  
Mrs. Tasneem Amin, AOR  
(Both in C.A. Nos.1292-1296/2009 & 227/2011  
via video link from Lahore)

For the Respondents:

Mr. Rashid Awan, ASC  
(In all cases via video link from Karachi)

Syed Rifaqat Hussain Shah, AOR  
(for Respondent No.1 in all cases)

Date of Hearing:

13.03.2023

**JUDGMENT**

**MUHAMMAD ALI MAZHAR, J:-** These Civil Appeals with leave of the Court are directed against the judgment dated 09.02.2005, passed by the High Court of Sindh at Karachi in Income Tax Appeal No.915/1999 and judgment dated 15.4.2008 passed in Tax Reference

No.03, 04, 06, 07 & 08/2008 and judgment dated 22.6.2009 in Tax Reference No.5/2008 passed by the Lahore High Court, Multan Bench.

2. The ephemeral chronicles and corpus of the aforesaid Civil Appeals are as follows: -

**(i) C.A. No.1275 of 2009**

That the respondent company (M/s Pak Saudi Fertilizer Ltd) derives income from manufacture of fertilizers. For the Assessment Year 1996-97, the respondent opted for the presumptive tax regime under Section 80-C of the Income Tax Ordinance, 1979 ("**ITO 1979**"), however no such option was exercised for the Assessment Years 1997-98 and 1998-99, and the tax returns were filed under the normal regime provided under Section 62 of the ITO 1979. Thereafter, the respondent for the first time filed a statement under Section 143-B of the ITO 1979 claiming that the respondent-assessee was eligible to be assessed under Section 80-C for the supplies made to M/s National Fertilizers Marketing Limited ("**NFML**") for which tax was deducted by the marketing company under Sub Section (4) of Section 50 of the ITO 1979. The claim was rejected by the Deputy Commissioner Income Tax and, being aggrieved, an appeal was filed before the Commissioner Income Tax (Appeals) which was also rejected. The respondent also approached the Income Tax Tribunal where the orders of the lower *fora* were upheld, but subsequently the findings of the learned Tribunal were upset by the learned Sindh High Court *vide* impugned judgment rendered in I.T.A. No.915/1999.

**(ii) C.A Nos.1292 to 1296 of 2009 & 227 of 2011**

The taxpayer, M/s Pak Arab Fertilizer Pvt. Ltd ("**PAFL**"), is owned by Federal Government under the control of Ministry of Production. M/s National Fertilizers Marketing Limited ("**NFML**") is a marketing company responsible for marketing of products of fertilizer. The taxpayer filed a return with the statement under Section 143-B of the ITO 1979 declaring sales through NFML for the Assessment Year 1999-2000. The Department on receipt of definite information came to know that the sale of manufacturing units was being effected through the marketing Company NFML under the Agency Agreement and expenses for sales/marketing were being reimbursed by group companies on actual. The assessing officer passed the assessment order under Section 62 of the ITO 1979. The taxpayer filed appeal and *vide* order dated 05.09.2001, the Appellate Authority directed to assess the income of the taxpayer under the presumptive tax regime against which the Department filed appeal before the learned Income Tax Appellate Tribunal wherein the order of Commissioner of Income Tax (Appeals) was upheld. The department filed Tax References before the Lahore High Court which were also rejected *vide* impugned judgment.

3. The composite leave granting order *inter alia* construes some questions with regard to the doctrine of lifting of veil in order to ascertain and determine the true status of NFML in the context of their true inter-relationship which was in fact a crucial point raised in both the High Courts but both the learned High Courts in their separate

judgments held that there was no relationship of principal and agent between the producer and marketing company, rather the arrangement made through sale agreement dated 30.06.1997 ("**Agreement**") was for outright sale.

4. The learned counsel for the appellants argued that the learned High Court erred in holding that the relationship between the assessee company and the marketing company is that of a seller and purchaser and not one of principal and agent on the basis of Agreement. It was further argued that the High Court has failed to take into consideration whether the alleged deduction of tax by NFML under Section 50(4) of the ITO 1979 would automatically entitle the respondent-assessee to take advantage of the benefits provided under Section 80-C of the ITO 1979. The learned High Courts also ignored another crucial point whether the transactions between the respondent-assessee company and NFML under the agreement constituted an outright sale within the meaning of the Sale of Goods Act, 1930 ("**SOGA 1930**"), or whether it depicted a relationship of principal and agent between the respondent assessee and its marketing company. It was further contended that the learned High Courts misconstrued the nature and scope of Section 50(4) of the ITO 1979 by holding that it does not speak of purchase and sale, rather it is the relationship of recipient and payer covered thereunder.

5. The learned counsel for the respondents argued that the bone of contention before the High Courts was to adjudicate whether NFML was an agent and if so, then there could be no question of any sale to the former by the latter, hence producer/manufacturer could not claim any benefits under the presumptive tax regime in terms of Section 80-C of the ITO 1979, and in that event the normal assessment as provided under Section 62 of the ITO 1979 was applicable. The learned counsel for the respondents referred to various clauses of Agreement and argued that a brief reading of it demonstrates, beyond any reasonable doubt, that there was an outright sale of the product to the marketing company by the manufacturing company. The invoices were issued without making any adjustment of alleged agency commission and all such invoices were settled by making payments in full less the advance income tax. It was further argued that in order to understand the true spirit of the transaction between the two companies, the niceties of Section 182 of the Contract Act, 1872 ("**Contract Act**") cannot be overlooked whereby

an agent is a person employed by any other person to do any act for and on behalf of the latter so as to bind him, which element is entirely missing from the Agreement in question. It was further avowed that, according to Sections 222 and 223 of the Contract Act, an agent acting in good faith must be indemnified by the principal against the consequences of that act, whereas in the agreement in question, the marketing company was liable to protect, defend and indemnify the manufacturing company against any and all claims, which undoubtedly shows that there was no relationship of agent and principal between the two companies. It was further contended that under Section 80-C of the ITO 1979, any amount received on which tax is deductible under Section 50(4) of the Act shall be deemed to be the total income tax liability of the assessee.

6. Heard the arguments. In the Sindh High Court judgment, the judgment of Income Tax Appellate Tribunal was impugned wherein it was held that as NFML was an agent of PSFL hence, keeping in view the relationship of agent and principal, the manufacturing company could not claim any benefits under the presumptive tax regime provided under Section 80-C of the ITO 1979 and was liable to deal with through normal assessment under Section 62 of the ITO 1979. The learned Sindh High Court, after providing a comprehensive opportunity of hearing, held that the agreement between the two companies envisages the outright sale of fertilizers manufactured by the appellant/respondent company to the marketing company. Consequently, the advance income tax deducted under Section 50(4) of the ITO 1979 upon the payments made by the latter to the former qualify to be treated as the income of the Appellant/respondent company under Section 80-C of the ITO 1979 for the year in question and set aside the impugned judgment passed by the Learned Income Tax Tribunal as well as the orders passed by the lower forums throughout with the directions that the assessment should be finalized for the year in question under Section 80-C of the ITO 1979. Whereas before the learned Lahore High Court, also the question was brought for adjudication with regard to the relationship of principal and agent between the same two companies but the Lahore High Court also concluded that the agreement is for outright sale and purchase and the essential elements of a contract of agency are missing. In fact, the learned Lahore High Court essentially subscribed to the views rendered by the Sindh High Court and finally held that the learned Income Tax Appellate Tribunal has rightly decided that provisions of

Section 80-C of the repealed ITO 1979 are attracted to the facts of the present case and the reopening of the assessments for completion of additional assessments under Section 62/65 of the repealed ITO 1979 was not legally justified.

7. In order to understand the true spirit and substratum of the relationship between the parties, it would be expedient to examine the indenture of the Agreement. The nomenclature of the document is a "Sale Agreement" executed on 30.6.1997 between PSFL as the "Producer" and NFML as the "Marketing Company". According to the recital, the producer is engaged in the manufacturing of Urea/fertilizer (product) and the marketing company represented that it has adequate know how and experience to carry on the distribution and marketing of the product. The agreement depicts that the producer agreed to sell the product to the marketing company for distribution in Pakistan in accordance with the terms and conditions of the agreement on non-exclusive basis. The marketing company was allowed to engage dealers for the purpose of effecting sales of the product in different parts of the assigned territory. In Clause 3.1, the rates of the product for selling it to the marketing company and adjustment on account of shortages and returns are mentioned, whereas in Clause 3.2 the mode of payment by the marketing company to the producer was provided with regard to the price of products as indicated in Clause 3.1. Clause 4 provides for delivery and inspection of the product. In Clause 7, the marketing company was bound to obtain all appropriate licenses, sanctions and permissions for carrying on operations at its own expense. While in Clause 8, the producer made no warranty of any kind except that the product sold by them shall be of the manufacturer's standard quality, with a further rider that the producer neither assumes nor authorizes the marketing company or any other person to assume liability in connection with the sale or use of the product, and there are no oral agreements or warranties collateral to or affecting this clause. Clause 11 relates to the advertisement of the product, being responsibility of marketing company in the territory, and, according to Clause 14, the marketing company is obligated to protect, defend indemnify and hold the producer harmless from and against any and all claims, demand, suits, or liability for damages for loss of property or for injury to or death of any person arising out of or in any way connected with the purchase, storage and transportation of the product by any person, firm or organization after the product has been duly delivered to the

marketing company by the producer. The indenture of the aforesaid agreement does not in any way transpire any relationship of principal and agent between the parties; rather it was an arrangement of outright sale without any impact and notion of agency.

8. The law of agency is a common law doctrine commanding and regulating the affiliation between agent and principal. The relationship originates when the agent is conferred the authority to act for the principal through a binding agreement with an explicit authority to perform the duties and obligation as required by the principal in terms of agency to achieve the task. The principal may be held liable for the misdemeanor and misdeed of its agent under the doctrine of vicarious liability. Agency is a series and sequence of passing on the authority by a principal to the agent to act on its behalf and under the quintessence of an agency contract the principal is legally bound by the acts performed by the agent, but the agent also owes a range of obligations to his principal and is duty-bound to adhere to the terms and conditions of agency religiously. In order to culminate the relationship of principal and agent, various avenues are available for valediction and wrapping up the arrangement, including termination through mutual agreement, revocation by the principal, repudiation by the agent and/or annulment or retraction of authority by the principal. In line with Section 19 of the SOGA 1930, where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred and for the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. While Section 20 of the *ibid* Act explicates that, where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed. So far as the relationship of agent and principal is concerned, Section 182 of the Contract Act defines the expressions "**Agent**" and "**Principal**" which manifests that an agent is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the principal. While Section 188 of the aforesaid Act pertains to the extent of the agent's authority i.e. that an agent having the authority to do an act has authority to do every lawful thing which is necessary in order

to do such act. This further elaborates that an agent having the authority to carry on a business has authority to do every lawful thing necessary for the purpose, or usually done in the course of conducting such business. The duties of an agent towards the principal are dealt with under Section 211 of the Contract Act wherein the agent is bound to conduct the business of the principal according to the directions given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and, if any profit accrues, he must account for it; whereas Section 222 is germane to the duties of the principal with regard to its agent wherein the employer of an agent is bound to indemnify him against the consequences of all lawful acts done by such agent in exercise of the authority conferred upon him and, taking into account the niceties of Section 223 of the Contract Act, where one person employs another to do an act, and the agent does the act in good faith, the employer is liable to indemnify the agent against the consequences of that act, though it may cause injury to the rights of third persons.

9. According to Halsbury's Laws of England (Fifth Edition), Volume 1, at pages 5-7 and 91, the nature of relationship of principal and agent as well the rights of agent have been expounded as under:-

### **1. Nature of the relation of agency.**

The terms 'agency' and 'agent' have in popular use a number of different meanings', but in law the word 'agency' is used to connote the relation which exists where one person has an authority or capacity to create legal relations between a person occupying the position of principal and third parties.

The relation of agency typically arises whenever one person, called the 'agent' has authority to act on behalf of another, called the 'principal', and consents so to act. Whether that relation exists in any situation depends not on the precise terminology employed by the parties to describe their relationship, but on the true nature of the agreement or the exact circumstances of the relationship between the alleged principal and agent. If an agreement in substance contemplates the alleged agent acting on his own behalf, and not on behalf of a principal, then, although he may be described in the agreement as an agent, the relation of agency will not have arisen. Conversely the relation of agency may arise despite a provision in the agreement that it shall not.

### **2. Other uses of the word 'agent'.**

In addition to describing a person employed to create contractual relations between two parties, the word 'agent' is used in at least two other senses. Thus it is often used in business in a non-legal

sense to refer to a distributor, as in the case of the appointment of a 'sole selling agent', 'exclusive agent', or 'authorised agent. The relation so established between the appointor and appointee is usually that of vendor and purchaser and no contractual relationship is established between the appointor of the agent and third parties by the sale of goods by the so-called agent to those third parties. The word 'agent' is also frequently used to describe the position of a person who is employed by another to perform duties often of a technical or professional nature which he discharges as that other's alter ego and not merely as an intermediary between the principal and the third party. Thus a solicitor may be a client's agent for the purpose of instituting or continuing legal proceedings on his behalf. Similarly where a person other than a servant is permitted by the owner of a vehicle to drive it for the owner's purposes, the driver will be the owner's agent for the purpose of making the owner vicariously liable for the driver's negligence in driving.

**112. Agent's rights to be reimbursed and indemnified.**

(At page 91)

The relation of principal and agent raises by implication a contract on the part of the principal to reimburse the agent in respect of all expenses, and to indemnify him against all liabilities, incurred in the reasonable performance of the agency, provided that such implication is not excluded by the express terms of the contract between them, and provided that such expenses and liabilities are in fact occasioned by his employment. The right is not affected by the fact that the payment in respect of which the agent seeks to be indemnified is not a payment for which the principal could be made liable.

The agent may enforce his rights of reimbursement and indemnity by claim, or by the exercise of his lien, and, if he is sued by the principal, he may assert them by way of set-off or counterclaim.

Whereas the concept and insight of creating agency and the relationship between the principal and agent, as well as their obligations towards each other have also been delineated in the lexicons of law in the following manner:

**Words and Phrases (Permanent Edition), Volume 2A**

(At page 436)

**In general**

"Agency" is the relationship which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act. *Hynek V. Milwaukee Automobile Ins. Co., Limited*, Mutual, 11 N.W.2d 352, 354, 243 Wis. 591.

(At page 437)

"Agency" may result from contract or from direction by one person to another to act on first person's account with or without such other's promise to do so and understanding that he is to receive compensation for his services if he does act. *Snyder v. Russell*, 1 N.W.2d 125, 127, 140 Neb. 616.

(At page 444)



### **Consent by principal**

Power to contract for one's principal is strong evidence of "agency" but does not constitute the sole test of its existence but agency may be shown by fact that a person represents his principal in some one or more of his relations to others even though the agent lacks contractual power. *Thompson v. Ford Motor Co.*, 21 S.E.2d 34, 49, 200 S.C. 393.

(At page 446)

### **Contractual character**

"Agency" rests on contract and involves power to bind principal, the existence of a fiduciary relationship, and right to control conduct of agent. *Esmond Mills v. Commissioner of Internal Revenue*, C.C.A.1, 132 F. 2d 753, 755.

(At page 454 to 455)

### **Sales agency**

Relationship such as that created by contract between furnace manufacturer and sole distributors within specified territory for outright sales to distributors who established retail prices, although not strict "agency," is frequently called "sales agency" or "exclusive agency," and gives rise to substantial property right authorizing relief against party breaching contract. *Stratton & Terstegge Co. v. Stiglitz Furnace Co.*, 81 S.W.2d 1, 3, 258 Ky. 678.

The term "agency" is a broad one, and may include every relation in which one person acts for another, and is frequently used in connection with an arrangement which does not in law amount to an agency, as where the essence of an arrangement is bailment or sale, as in the case of a sale agency exclusive in certain territory. *State Compensation Ins. Fund v. Industrial Accident Commission*, 14 P.2d 306, 310, 216 Cal. 351.

### **Black's Law Dictionary (Tenth Edition)**

At page 74

**Agency. 1.** A relationship that arises when one person (a principal) manifests assent to another (an agent) that the agent will act on the principal's behalf, subject to the principal's control, and the agent manifests assent or otherwise consents to do so. • An agent's actions have legal consequences for the principal when the agent acts within the scope of the agent's actual authority or with apparent authority, or the principal later ratifies the agent's action.

"The basic theory of the agency device is to enable a person, through the services of another, to broaden the scope of his activities and receive the product of another's efforts, paying such other for what he does but retaining for himself any net benefit resulting from the work performed." Harold Gill Reuschlein & William A. Gregory, *The Law of Agency and Partnership* §1, at 3 (2d ed. 1990).

10. In the case of *Bolan Beverages (Pvt.) Ltd. v. PepsiCo Inc. and 4 others* (PLD 2004 SC 860), this Court, while dilating upon Section 182 of the Contract Act held that an agent is appointed by a principal

to do any act for the principal or to represent the principal in dealings with the third persons. From the agreement in hand it has become abundantly clear that Bolan Bottlers while dealing with third persons do not represent Pepsi Cola. After purchasing the concentrate from the Pepsi Cola Company they are engaged in a business which is purely their own and the returns thereof are completely enjoyed by them. It was further held that an agent is a hyphen that joins and a buckle that binds the relation between the principal and the third party. Where an agent is not a link between the principal and a third party, the institution of agency is not created. In case of the sale by one person of a product belonging to the other and having purchased from that other, the agency is not created. The indispensable ingredient of agency in such cases is missing because when the so-called agent deals with the third person, such dealings do not bind the so-called principal. Any expenditure in setting up office and necessary infrastructure for carrying on business of agency does not tantamount to the creation of interest of agent in the subject matter. In the case of M/s Vijay Traders v. M/s Bajaj Auto Ltd. (1995 SCC (6) 566), the defendants contested the suit by denying the allegation that they had appointed the plaintiffs as their agent and pleaded that they had never appointed the plaintiffs as their sole, permanent and irrevocable agents but the plaintiffs used to pay for the said automobiles and sell them independently. The Court held that it is abundantly clear that the plaintiffs were buying the vehicles from the defendants for resale and the assertion of the plaintiffs about agency is quite inconsistent with the notice of transaction between the parties and in such a circumstance the agreement would be one between vendor and purchaser and not one of principal and agent. The Court also relied on the judgments rendered in the case of State of Mysore Vs. Mysore Spinning and Manufacturing Company Limited (AIR 1958 SC 1002) in which the manufacturer sold the goods to licensed export dealers who exported the goods to foreign buyers. The question arose whether the export dealers were agents of the manufacturer, or whether the export dealers themselves were the principals and not the agent of the manufacturers. The Court took the view that the very act of purchase in such a transaction would not make the exporters agents of the manufacturers. While in the case of Gordon Woodroffe & Co. v. Sheikh M. A. Majid & Co. (AIR 1967 SC 181), the Court drew a distinction between a contract of sale and a contract of agency. The essence of sale is the transfer of the title to the goods for price paid or to be paid.

The transferee in such case becomes liable to the transferor of the goods as a debtor for the price to be paid and not as agent for the proceeds of the sale. On the other hand, the essence of agency to sell is the delivery of the goods to a person who is to sell them, not as his own property but as the property of the principal who continues to be the owner of the goods and who is therefore liable to account for the proceeds. The true legal relationship between the parties in the present case has, therefore, to be inferred from the nature of the contract, its terms and conditions and the nature of respective obligations undertaken by the parties. Whereas in the case of Bhopal Sugar Industries Ltd. v. Sales Tax Officer, Bhopal (1977 SCR (3) 578), where the issue was to determine whether the contract was one of sale and not of agency, the Court held that the agreement could not have been an agreement of agency because the essential distinction between an agreement of sale and an agreement of agency is that in the former case the property is sold by the seller as his own property and in the latter case the property is sold by the agent not as his own property but as the property of his principal and on his behalf. Last but not the least, the true relationship of the parties in each case has to be gathered from the nature of contract, its terms and conditions, and the terminology used by the parties. In W.T. Lamb and Sons v. Goring Brick Company Limited ([1932] K.B. 710), there was an agreement in writing by which certain manufacturers of bricks and other building materials appointed a firm of builders' merchants as "sole selling agents of all bricks and other materials manufactured at their works". The agreement was expressed to be for three years and afterwards continuously subject to twelve months' notice by either party. While the agreement was in force the manufacturers informed the merchants that they intended in the future to sell their goods themselves without the intervention of any agent, and thereafter they effected sales to customers directly. It was held by the Court of Appeal that the agreement was one of vendor and purchaser and not one of principal and agent. The same principle was enunciated in Hutton v. Lippert ([1883] 8 A.C. 309), in which there was a contract between the defendant and E, which in its terms purported to be one of guarantee or agency; that is to say, the defendant guaranteed the sale of E's property in whole or by lots at a fixed price, E giving the defendant a power of attorney to deal with the property as he thought fit, and agreeing that he should receive any surplus over and above the fixed price as his commission on and recompense for the said guarantee

[Ref: Tirumala Venkateswara Timber and Bamboo Firm v. Commercial Tax Officer, Rajahmundry (AIR 1968 SC 784)].

11. The survey and analysis of the terms and conditions of the Agreement leads us to an explicit finale that it was an agreement for outright sale by means of which the payments were being made in full after deduction of the advance income tax by the marketing company for settlement of invoices. Neither substratum of the agreement underlines any characteristics of agency nor contains any provision for agency commission. All the more so, leaving aside the issue of relationship for a spur of moment, we cannot disregard the meticulousness of Section 80-C of the ITO 1979, which articulates that any amount received under which tax is deductible under Section 50(4) was deemed to be the total income tax liability of the assessee which was not disputed or resisted by the learned counsel for the petitioners, therefore, the amount received after deduction under Section 50(4) was rightly deemed to be the total income tax liability and for all practical and legal purposes, the respondent company could not be deprived of the benefit of Section 80-C of ITO 1979. It is quite noticeable that Section 80-C of the ITO 1979 started with a non-obstante clause, that notwithstanding anything contained in the ITO 1979 or any other law for the time being in force, where any amount referred to in sub-section (2) is received by or accrues or arises or is deemed to accrue or arise to any person being a resident, the whole of such amount shall be deemed to be income of the said person and tax thereon shall be charged at the rate specified in the First Schedule. Whereas Sub-section (2) *inter alia* refers the amount mentioned in sub-section (1) namely: (a) Where the person is a resident, (i) the amount representing payments on which tax is deductible under sub-section (4) of Section 50, other than payments on account of services rendered; (ii) the amount as computed for the purpose of collection of tax under sub-section (5) of section 50 in respect of goods imported, not being goods imported by an industrial undertaking as raw material for its own consumption; and (iii) the amount on which tax is deductible under sub-section (7A) of Section 50 in respect of lease of right to collect octroi duties, tolls, fees or other levies, by whatever named called. Sub-section (4) of Section 80-C ITO 1979, further conveys that where the assessee has no income other than the income referred to in sub-section (1) in respect of which tax has been deducted or collected, the tax deducted or collected under Section 50 shall be deemed to be the final discharge of his tax liability under this

Ordinance. Whereas according to the niceties of Section 50 (4) (a) of ITO 1979, any person responsible for making any payment in full or in part to any person being resident on account of the supply of goods or for service rendered to, or the execution of a contract with the Government, or a local authority, or a company or a registered firm or any foreign contractor or consultant or consortium shall, where the total value, in any financial year, of goods supplied or contracts executed exceeds ten thousand rupees, deduct advance tax, at the time of making such payment, at the rate specified in the First Schedule, and credit for the tax so deducted in any financial year shall, subject to the provisions of Section 53, be given in computing the tax payable by the recipient for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessment to which Section 72 or Section 81 applies, the assessment year, if any, in which the said date, as referred to therein, falls, whichever is the later. The letter of law made it quite clear without any ambiguity that the respondents rightly claimed the benefit of Section 80-C of the ITO 1979 for the amount received against outright sale on which the tax was deducted under Section 50(4) *ibid* which was deemed to be the total income tax liability of the assessee.

12. In the wake of the above discussion, we do not find any irregularity or perversity in the impugned judgments passed by the learned High Courts warranting interference. Consequently, these Civil Appeals are dismissed.

Chief Justice

Judge

Judge

Islamabad, the  
13<sup>th</sup> March, 2023  
Khalid  
Approved for reporting.