

Judgment Sheet
IN THE LAHORE HIGH COURT AT LAHORE.
JUDICIAL DEPARTMENT

W.P. No. 2928 of 2026

Mahmood Akbar

Versus

Federal Board of Revenue etc.

JUDGEMENT

Dates of Hearing:	14.05.2026, 10.06.2026, 15.06.2026, 17.06.2026, 18.06.2026, 23.06.2026, 29.06.2026, 30.06.2026, 01.07.2026, 02.07.2026
Appellants by:	<u>In instant petition</u> Mr. Salman Aslam Butt, ASC assisted by Shoaib Rashid, Barrister Isha Shahid Bilal, Barrister Sakher Tabassam, Qasim Imran Ali, Hassan Parvez, Jamal Abdul Nasir, Advocates <u>In W.P. No. 12460 of 2026</u> Mr. Imtiaz Rashid Siddiqui, ASC assisted by Sheheryar Kasuri, Raza Imtiaz Siddiqui, Ali Umrao, Zain Chatha, Abdullah Arif and Jamshid Alam, Advocates <u>In W.P. Nos. 48975 and 55262 of 2020</u> Mr. Muhammad Ajmal Khan, ASC assisted by Omer Wahab, Muhammad Azhar Khan Joyya, Rana Usman Habib Khan, Muhammad Nadeem Sh., Muhammad Ahsan Nawaz, Noreen Fouzia, Saba Rosheen, Nabeela Hassan Dogar, Ahmad Iqbal, Azeem Ullah Virk, Syed Husnain Haider Naqvi, Rana Muhammad Usama, Syed Samar Raza Rizvi, Qura-ul-Ain Arshad and Irfan Noor Gondal, Advocates <u>In W.P. No. 38046 of 2026</u> M/s. Saqib Haroon Chishti, Ch. Haseeb Tariq, Barrister Ch. Abubakar, Mahad Abdul Ghafoor, Maryam Khan Khosa & Mashal Sahir, Advocates <u>In W.P. No. 77078 of 2025 & 22581 of 2026</u> M/s. Rai Amer Ijaz Kharal, Rabeel Raza Bhatti, Muhammad Ibraheem Hassan and Muhammad Naeem Beryar, Advocates assisted by Zoraiz

	Ahmed Minhas, Advocate <u>In W.P. No. 19122 of 2026</u> M/s. Hammad-ul-Hassan Hanjra and Muhammad Yasir Siddique, Advocates <u>In W.P. No. 19609 of 2026</u> M/s. Faisal Naseer Rana, Ruda Kashif, Muhammad Nauman Khan Tareen, Rana Faheem Moazzam, Advocates <u>In W.P. No. 8444 of 2026</u> Mr. Hashim Aslam Butt, ASC assisted by Muhammad Irfan, Mudassar Hassan & Shahmeer Naveed Arshad, Advocates <u>In W.P. Nos. 16778 & 22483 of 2026</u> M/s. Barrister Osama Zafar and Abdul Basit Cheema, Advocates <u>In W.P. No. 22255 of 2026</u> M/s. S.M. Raheel and Murtaza Naeem, Advocates <u>In W.P. No. 74226 of 2025</u> M/s. Muhammad Hamza, Ashiq Ali Rana and Imran Sakhawat, Advocates <u>In W.P. No. 7440 of 2026</u> M/s. Mian Bazaf Shahbaz, Maryam Javed, Abdullah Arif Malik, Khalid Masood, Awais Bin Tariq and Muhammad Haris Tanveer, Advocates <u>In W.P. Nos. 11861, 11870, 39711 of 2026</u> M/s. Zafar Iqbal Kallu, Taheel Tariq and Hamid Bashir, Advocates
Respondents By	<u>For FBR in W.P. Nos. 77078 & 16778 of 2026</u> Ms. Asma Hamid, ASC assisted by Mustafa Khalid, Muhammad Faisal Khalid, Rabia Khan, Zarwa Jamal, Advocates <u>For FBR in W.P. Nos. 48975, 55262 of 2020</u> Barrister Ahmad Pervaiz, ASC assisted by Barrister Ahad Asif Ali, Barrister Suleman Naseem Sheikh and Barrister Hamza Shahid Butter <u>For Respondent in W.P. No. 77078 of 2025</u> Mr. Abdullah Haroon, Advocate <u>For FBR in W.P. No. 12460 of 2026</u> Mrs. Amna Parveen, Advocate/Special Prosecutor/FBR

	<u>For Respondent Nos.2 to 6 (FBR) in W.P. No.12460 of 2026</u> Mr. Amir Wakeel Butt, ASC assisted by Mohsin R. Chaudhary, Advocate <u>For Respondent Nos. 3 to 5 FBR/Director I&I in W.P. Nos. 2928 of 2026 and 74226 of 2025</u> Syed Zain-ul-Abidein Bukhari, Advocate/Legal Advisor <u>For Respondent FBR/Director I&I in W.P. No.43696 of 2025</u> Mr. Muhammad Yahya Johar, Advocate <u>For Respondent I&I Faisalabad and Lahore in W.P. Nos.7440, 8444, 11861, 11870, 16292, 19122, 18547, 22581, 22255, 39711 of 2026</u> Mr. Muhammad Bilal Munir, Advocate <u>For Respondent Nos.3 to 5 in W.P. No.38046 of 2026</u> Mr. Nouman Hassan Baloch, Advocate <u>For Director I&I in W.P. No. 22483 of 2026</u> Dr. Ishtiaq Ahmad Khan assisted by Barrister Muhammad Nauman Khan and Usman Malik, Advocates <u>Representatives of I&I-IR, Lahore (FBR)</u> Dr. Tanvir Hussain Bhatti, Additional Director assisted by Wasim Ahmad IO, Muhammad Junaid IO and Shahzad Goraia IO, I&I, Inland Revenue, Lahore
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KHALID ISHAQ, J. This judgment shall decide the captioned Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan (the “**Constitution**”), as well as the following connected Petitions raising identical questions of law:

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|-------|------------------------|-------|------------------------|
| i. | W.P. No. 19609 of 2026 | ii. | W.P. No. 16778 of 2026 |
| iii. | W.P. No. 22483 of 2026 | iv. | W.P. No. 18547 of 2026 |
| v. | W.P. No. 77078 of 2025 | vi. | W.P. No. 55262 of 2020 |
| vii. | W.P. No. 38046 of 2026 | viii. | W.P. No. 74226 of 2025 |
| ix. | W.P. No. 48975 of 2020 | x. | W.P. No. 8444 of 2026 |
| xi. | W.P. No. 7440 of 2026 | xii. | W.P. No. 11870 of 2026 |
| xiii. | W.P. No. 11861 of 2026 | xiv. | W.P. No. 19122 of 2026 |
| xv. | W.P. No. 12460 of 2026 | xvi. | W.P. No. 22581 of 2026 |

xvii. W.P. No. 22255 of 2026 xviii. W.P. No. 39711 of 2026

2. For the purpose of this judgment, the facts of the present case shall suffice.

3. Briefly, the facts, which are germane for deciding these Constitutional Petitions are that the Petitioners are taxpayers registered under the Income Tax Ordinance, 2001 (“**Ordinance, 2001**”). The Directorate General, Intelligence and Investigation Inland Revenue (“**DG, I&I**”) initiated the proceedings against the Petitioners, invoking the provisions contained in Anti-Money Laundering Act, 2010 (“**AMLA**”), read with relevant provisions of Ordinance, 2001. As per the case of the respondent department, the Petitioners were issued notices and after grant of opportunities of hearing for rendering explanation *qua* the alleged conduct, the FIRs have been registered against the Petitioners in terms of the provisions contained in AMLA on the basis of alleged predicate offences, followed by issuance of notices/summons and initiation of consequential proceedings.

4. It is in this backdrop that the Petitioners have sought to invoke the Constitutional Jurisdiction of this Court, essentially questioning the assumption and exercise of jurisdiction under AMLA, registration of the FIRs and consequential proceedings, *inter alia*, on the premise that the underlying tax liability had not first been determined through the adjudicatory mechanism provided under the Ordinance, 2001; some of the Petitioners have argued that in their respective cases the tax determination has already been made by the assessing officer(s) and the matter having been culminated in favour of the Petitioners upto the Appellate Tribunal Inland Revenue (“**Tribunal**”), therefore, no case is made out against them. Others have argued that the determination of the tax liability against the Petitioners is a *sine qua non* for initiating the proceedings of such a nature, as enunciated by the Supreme Court of Pakistan, in the case of ***Taj International***¹, therefore, the proceedings under AMLA are patently without jurisdiction. In one of the connected petitions, vires/legal validity of

¹ *Directorate of Intelligence and Investigation-FBR, through Director and others v. Taj International (Pvt.) Ltd. and others* (PLD 2025 SC 633=2025 PTD 1270)

Notification No.SRO 425(I)/2016 dated 14.05.2016, whereby certain offences under the Ordinance, 2001 were included in Schedule-I to AMLA, has also been called in question on the grounds of competence and legality of the said SRO.

5. In a nub, the challenge brought about through these Constitutional Petitions is rooted in the threshold submissions of “*due process*” and “*fair trial*” as envisaged in Articles 4 & 10A of the Constitution.

6. Learned counsel for the Petitioners, in substance, raise the following common grounds:

- a. contend that the proceedings initiated under AMLA cannot commence merely on the basis of allegations concerning the tax matters without determining the related tax liability, if any, under the regular adjudicatory regime spelt out by virtue of the provisions contained in the Ordinance, 2001, which determination may then form basis for questioning that as to whether an offence has been committed;
- b. argue that the Ordinance, 2001 provides a complete mechanism for inquiry, assessment, appeal and recovery, therefore, the initiation of criminal proceedings without or during the pendency of such process of law, amounts to frustrating the statutory scheme and leading to infringement of fundamental rights of due process and fair trial;
- c. add that in absence of determination of the alleged predicate offence and identification of ‘*proceeds of crime*’, the essential ingredients for invocation of the provisions contained in AMLA are not attracted, consequently, the registration of the Impugned FIRs followed by notices/summons are without lawful authority and jurisdiction.
- d. It has been forcefully argued that the statutory scheme of AMLA does make ‘proceeds of crime’ central to the offence of money laundering, while defining a predicate offence by

reference to the Schedule, therefore, an overwhelming reliance has been placed upon the principles enunciated in *Taj International*, to contend that criminal prosecution founded upon alleged tax evasion cannot precede the requisite adjudication/determination under the fiscal laws.

- e. Another ground common in substance is that the respondent authorities cannot bypass the proceedings contemplated under the Ordinance, 2001 and thus, cannot resort to criminal machinery for establishing and proving the commission of an offence without there being a final determination of a tax liability, which is either still uncertain or has concluded in favour of the taxpayer.
- f. While referring to the provisions contained in Section 110D of the Ordinance, 2001, it is contended that clause (c) of sub-section (6) of Section 100D of the Ordinance, 2001 excludes the offences under the Ordinance, 2001 in the circumstances contemplated therein; therefore, invocation of Sections 192, 192A and 199 of the Ordinance, 2001 for setting up a case of predicate offences by resorting to the provisions contained in AMLA, is without jurisdiction.
- g. Further submits that proceedings concerning the Petitioners' tax affairs were already pending before the officer exercising regular jurisdiction under the Ordinance, 2001 when the Directorate I&I intervened and initiated parallel criminal proceedings, therefore, the impugned FIRs, notices and summons amount to bypassing the statutory proceedings already underway.
- h. Plead that SRO No.425(I)/2016 dated 14.05.2016, whereby offences under sections 192, 192A, 194 and 199 of the Ordinance, 2001 were inserted in Schedule-I to AMLA, has not validly been issued by the Federal Government and is contrary

to the law laid down by the Supreme Court of Pakistan in the case of M/s. Mustafa Impex.²

- i. further submit that an Investigating Officer under AMLA neither has any lawful authority to assume jurisdiction as couched in Sections 111 or 122 of the Ordinance, 2001 as the impugned notices issued by the respondents have all the trappings of a notice or order under the aforesaid provisions, which is not the mandate of DG I&I nor the Investigation Officer can assess income or independently determine concealment or the amount of tax allegedly evaded as such a jurisdiction squarely falls within the domain of the competent authority under the Ordinance, 2001.
- j. contend that proceedings under AMLA could not be set in motion merely on the basis of Suspicious Transaction Report (“STR”), its analysis by the Financial Monitoring Unit (“FMU”) and dissemination of the resultant information to the concerned investigating or prosecuting agency as these are automated desktop generated STR and the actions followed by those STRs, which cannot trump the question of basic liberties and due process, therefore, an Investigating Officer under AMLA could not lawfully register an FIR in respect of the predicate offences and the cognizance could only be taken upon a ‘complaint’ by the relevant officer, as contemplated by section 21 of AMLA, read with Section 200 of the Code of Criminal Procedure, 1898 (“Cr.P.C.”), as distinguished from a police report under Section 173 thereof.
- k. while continuing to challenge the assumption of jurisdiction by the Investigation Officer, it is argued that the Investigation Officer, who registered the impugned FIRs had neither been conferred the powers of an Officer-in-Charge of a Police Station nor had the concerned place been declared as a ‘Police

² M/s. Mustafa Impex, Karachi and others v. Government of Pakistan through Secretary Finance, Islamabad and others (PLD 2016 SC 808)

Station' under the applicable law, hence, registration of the impugned FIRs itself is without lawful authority.

- l.** In addition to above, there are certain factual variations *qua* the facts and circumstances of some of the Petitions whereby, the counsel for the petitioners have argued that the assessment proceedings initiated against the Petitioners by the revenue have been culminated upto the Tribunal in favour of the taxpayers/petitioners, therefore, unless those determinations so rendered under the taxation regime, as envisaged in the relevant statute i.e. Ordinance, 2001, are set aside, no FIR can be registered against such taxpayers/Petitioners.
- m.** With an intent to substantiate the submission *viz* the absence of due process in the impugned actions, it is argued that the due process has a wider scope than the concept of natural justice under the common law; the due process clause is an outstanding feature³ which has to be adhered to.
- n.** It is argued by learned counsel for the Petitioners that in some of the connected petitions, the deemed or amended assessment in terms of Section 120 and 122 of the Ordinance, 2001 pertains to the tax years, which cannot be now questioned or amended for the reason that the limitation to call into question such assessments have already come to pass under the statutory limitations.
- o.** While responding to the question *viz* the applicability of Taj International in the case in hand, since the said judgment has been rendered *viz* the provisions contained under the Sales Tax Act, 1990 and that too in the peculiar facts and circumstances relating to provisions contained in the said Act, whereas, the instant cases relate to the provisions contained in AMLA and the Ordinance, 2001, and though Ordinance, 2001 is a taxing statute but AMLA having different genesis, learned counsel for

³ Fauji foundation and another v. Shamim ur Rehman (PLD 1983 SC 457)

the petitioners submit that the grundnorm principle, which has been made basis for passing the Taj International judgment is rooted in the enunciation that the matters pertaining to the taxation requires a precondition of determination of the tax liability before the criminal proceedings can be resorted to viz the offences relating to tax matters, therefore, as contended, Taj International is squarely and wholly applicable to the case in hand. The reliance in this regard has further been placed upon the Supreme Court of Pakistan's order dated 13.05.2026 passed in Crl.R.P. No.34/26 in Crl. Petition No.120/26 titled "Directorate of Intelligence and Investigation Inland Revenue, Karachi v. Arshad Aziz Abbasi", order dated 17.02.2026 passed in Criminal Petition No.120/26 titled "Arshad Aziz Abbasi and others v. The Special Judge, Customs, Taxation and Anti-Smuggling-I, Karachi" and judgment dated 27.02.2026 passed in Criminal Petition No.174/2026 titled "Shahid Ch. v. the State through Special Prosecutor Customs Lahore" to contend that subsequent to Taj International, it has now been held by the Supreme Court of Pakistan while dealing with a similar question raised by the respondents in Criminal Review petition No.34/26 *supra*, that the scope and applicability of Taj International has already been examined and deliberated by the Supreme Court of Pakistan in order dated 17.02.2026 passed in Criminal Petition No.120 of 2026, holding that: "*under the facts and circumstances of the instant case, it can be safely concluded that criminal proceedings have been initiated against the petitioners without determination of tax liability through process of adjudication and assessment of tax under the Act of 1990 and the Ordinance, which act besides being violative of the Constitutional guarantee as per Article 10A of the Constitution and principles of natural justice as no opportunity of being heard has been provided to the petitioners while resorting to initiation of criminal proceedings in the*

shape of registration of FIR and attachment of properties of the petitioners is also in total disregard of the explicit judgment of this Court rendered in the case of Taj International (supra).....”

Learned counsel for the petitioners contend that above referred order of the Supreme Court of Pakistan has arisen out of a pending proceedings of a case which also relates to the proceedings initiated under AMLA by the DG I&I.

- p. Since the petitioners have sought the relief of quashment of FIRs, therefore, during the course of hearing, learned counsel for the petitioners were specifically confronted *viz* the mandate and contours of jurisdiction exercised by this Court under Article 199 of the Constitution and the law laid down by the Supreme Court of Pakistan *viz* the questions of quashment of FIRs, learned counsel for the petitioners contend that since the respondents/investigating officers, who proceeded to register FIRs were doing an act of an investigation, performing the functions in connection with the affairs of the Federation, thus, they are amenable to the jurisdiction of this Court under Article 199(1)(a)(ii) of the Constitution, therefore, this Court can declare such acts of the respondents to have been done without any lawful authority.⁴ It is further argued that investigation can be corrected and necessary orders can be passed by this Court, if the aggrieved party alleges and proves that either the investigation has been initiated beyond jurisdiction of the investigation agency or the investigation has been initiated with *mala fide* intention, bad faith and in colorable exercise of power⁵; adds that the petitioners cannot be directed to resort to the provisions contained in Section 249-A or Section 265-K of the Cr.P.C. as the quashment is sought on the ground that the proceedings are *ex facie* without jurisdiction and continuation

⁴ *FIA through Director General FIA v. Syed Hamid Ali Shah* (PLD 2023 SC 265)

⁵ *Messrs R.SIM and Co. Ltd. v. the District Magistrate* (PLD 1966 SC 650), *Ghulam Sarwar Zardari v. Piyar Ali alias Piyaro* (2010 SCMR 624)

of the same will constitute the abuse of process of Court ⁶, thus, as contended, the continuation of the proceedings would be a futile exercise and wastage of time, therefore, the FIRs may be quashed⁷; while placing reliance on the case of Abdul Aziz Menon⁸, it is argued that the Supreme Court of Pakistan, while enunciating the law *viz* the powers exercised by the Chairman NAB under the provisions contained in *National Accountability Ordinance, 1999* has held that even the opinion of the Chairman NAB is justiciable, therefore, the opinions formed in this case by the respondents for registration of cases is also justiciable; lastly contends in this regard that the instant case falls within the well-recognized exceptions to the legal rule of non-quashing of FIRs while exercising jurisdiction under Article 199 of the constitution as the ground of attack in this and connected cases is that the actions taken by the respondents are absolutely without lawful authority.

7. Conversely, learned counsel for the respondents, apart from laying a confrontal attack *viz* the maintainability of these Constitutional Petitions, have laid out the legislative background of the promulgation of AMLA and explained in great detail the process being followed by the Directorate of I&I, as couched in the applicable law, rules and SOPs framed; submit that proceedings under AMLA are independent of the assessment and recovery mechanism provided under the Ordinance, 2001; adds that the offence under Section 3 of AMLA is autonomous and by virtue of Explanation II thereto, conviction for the predicate offence is not a prerequisite of prosecution for money laundering as laundering stands on its own footing as a distinct criminal offence under Section 3 of AMLA; contends that the prior assessment or determination of tax liability under the Ordinance, 2001 is not a condition precedent for initiation of proceedings under AMLA; while placing reliance upon Section 39 of AMLA, it is contended that the special statutory regime created under AMLA, which is subsequent in time, has an

⁶ Maritime Security Agency, Karachi v. Muhammad Saleem Khan (PLD 1994 SC 486)

⁷ Muhammad Aslam (Amir Aslam) v. District Police Officer, Rawalpindi (2009 SCMR 141)

⁸ Abdul Aziz Menon v. The State (PLD 2013 SC 594)

overriding effect; submits that the DG I&I is not undertaking an exercise of assessment for recovery of tax and instead the investigation launched is confined to the question that whether the property/assets/funds in question constitutes the proceeds of crime and has thereafter been concealed, layered, possessed, transferred, converted or otherwise dealt with within the contemplation of Section 3 of AMLA.

8. The pursuit of the invocation of the Constitutional jurisdiction of this Court by filing these Petitions under Article 199 of the Constitution has been resisted on the ground that the questions concerning the source and character of funds, existence of proceeds of crime and acts allegedly constituting concealment, possession, layering or integration are disputed questions requiring evidence before the Court of competent jurisdiction i.e. the Special Court, therefore, considering the well settled law on the subject that this Court cannot embark upon to look into or determine the disputed questions of facts, the Constitutional Petitions in hand, as contended, are liable to be dismissed.

9. While further substantiating her submissions, learned counsel for the respondents contend that since AMLA itself contains statutory safeguards and remedies at different stages, including the requirement of reason to believe, confrontation of record and facts during investigation, proceedings concerning attachment and the remedy of appeal under section 23 of AMLA, therefore, as argued, these are the matters, which are required to be appreciated by the Court of competent jurisdiction and thus, does not furnish a basis for quashing the respective FIRs at the threshold.

10. It is contended that the special regime under Section 100D of the Ordinance, 2001 affords, subject to its conditions, immunity from the operation of Section 111 of the Ordinance, 2001 alone and does not constitute immunity from prosecution under AMLA; adds that the conditions attached to the concession, including genuine construction and investment through the prescribed banking channel, were not fulfilled and that the transactions relied upon involved fabricated completion certificates and circular transactions; contend that the statutory concession itself excludes

earnings from money laundering and, therefore, Section 100D of the Ordinance, 2001 cannot be invoked as a shield against proceedings under AMLA.

11. On the question of limitation, raised in some of the Constitutional Petitions *viz* the lapse of limitation for calling into question the assessments pertaining to the Tax Years in issue, learned counsel for the respondents not only disputes the factual premise by arguing that without prejudice to the fact that no limitation runs for taking cognizance of an offence being committed and the criminal prosecution can be launched when the occurrence of such an offence has surfaced, AMLA proceedings have commenced before the lapse of purported period of limitation; add that AMLA being a special statute does not contain corresponding limitation for initiation of such proceedings as the concealment, possession or disguise of alleged proceeds of crime constitutes continuing conduct and, therefore, the proceedings are not necessarily confined to the tax year in which the underlying transaction is alleged to have originated.

12. We have heard learned counsels for the parties at length and perused the available record with their able assistance.

13. Apart from the question of maintainability of this and connected Constitutional Petitions, the principal question laid for determination before us is whether the proceedings under AMLA, founded upon the alleged offences specified in the Ordinance, 2001 and being predicate offences in terms of the provisions read with the Schedule-I of AMLA can be initiated or continued without determination of the claimed corresponding tax liability under the Ordinance, 2001. The answer to this question indeed relates to and leads to the question of maintainability of these Constitutional Petitions. Petitioners' arguments proceed substantially on the premise that the alleged accusations essentially relate to tax liability, therefore, without first determining the same under the Ordinance, 2001, there can be no predicate offence and consequently, no proceeds of crime capable of attracting AMLA. Having examined the statutory scheme and the law relied

upon by the parties, we are not persuaded to accept the proposition in such absolute terms for the following reasons:

14. Since the threshold submissions are rooted in the arguments advanced on the touchstone of due process, therefore, we deem it appropriate to deal this question ahead of all other questions. The historic origin of ‘Due Process of Law’ is usually traced back to Magna Carta – the Great Charter of 1215 where the basic idea underlined that phrase was expressed in its clause 29.⁹ There is no cavil to the settled position of laws over the continents that “*due process and procedural fairness go together*, but it is not always clear whether they mean the same thing or what the differences between them are. The notion of due process has been associated with certain doctrines, both substantive and procedural, arising under American Constitution, while procedural fairness is more at home in the British context.”¹⁰ The contours of ‘due process’ are not susceptible to any rigid or definite formulation. Whether the requirement of due process has been observed and adhered to is necessarily depend upon the facts and circumstances of each case, the nature of the proceedings involved and the statutory framework governing the same. What constitutes *due process* in a given case must consequently be examined in its own factual and legal setting rather than by application of an inflexible formula. ‘*Procedural due process*’ guarantees only that there is a fair decision making process before some action is taken directly impairing a person’s life, liberty or property. It is only necessary that a fair decision making process be used; the ultimate rule to be enforced need not to be fair and just, whereas, ‘*substantive due process*’ is concerned with the ability of the judiciary to review the substance of legislation. “By ‘substantive review’ we mean the judicial determination of the compatibility of the substance of law or executive action with the Constitution. The Court is concerned with the constitutionality of the underlying rule rather than with the fairness of the process by which the executive applies the rule to an individual. Every form

⁹ see p. 873 | *Judicial Review of Public Actions* | V.2 (2nd Edition) | Justice Fazal Karim | Published by Pakistan Law House

¹⁰ see pp. 870 - 872 | *Judicial Review of Public Actions* | V.2 (2nd Edition) | Justice Fazal Karim | Published by Pakistan Law House

of review other than that involving *procedural due process* is a form of substantive review.”¹¹ *Fazal Karim, J.* has extensively quoted the *Hurtado v. California*¹², whereby, *Matthew J.* proceeded to dismiss a contention of a prisoner, who claimed that his conviction and sentence were void on the ground that they were repugnant to the 14th Amendment of the American Constitution; the contention was that it was essential to the due process of law to try him by a grand jury as known to the Common Law of England and as he had not been so tried, his conviction and sentence were void. While dismissing such a plea, it was held: “*to what principle, then, are we to resort to ascertain whether this process, enacted by Congress, is due process? The real syllabus of the passage quoted is that a process of law, which is not otherwise forbidden must be taken to be due process of law, if it can show the sanction of settled usage both in England and in this country; but it by no means follows that nothing else can be due process of law.*”¹³ To sum up, the following observations of *Justice John Marshall Harlan II*¹⁴ are relevant to the point in some abundance of clarity:

“*Due process has not been reduced to any formula; its content cannot be determined by reference to any code. The best that can be said is that through the course of this Court’s decisions it has represented the balance which our Nation, built upon postulates of respect for the liberty of the individual, has struck between that liberty and the demands of organized society. If the supplying of content to this Constitutional concept has of necessity been a rational process, it certainly has not been one where judges have felt free to roam where unguided speculation might take them. The balance of which I speak is the balance struck by this country, having regard to what history teaches are the traditions from which it developed as well as the traditions from which it broke. That tradition is a living thing. A decision of this Court which radically departs from it could not long survive, while a decision which builds on what has survived is likely to be sound. No formula could serve as a substitute, in this area, for judgment and restraint.*”

[Emphasis Supplied]

¹¹ see p. 1114 | *Judicial Review of Public Actions* | V.2 (1st Edition) | Justice Fazal Karim | Published by Pakistan Law House

¹² 110 US 516, 28 L Ed.232

¹³ see p. 1114 & 1115 | *Judicial Review of Public Actions* | V.2 (1st Edition) | Justice Fazal Karim | Published by Pakistan Law House

¹⁴ *Poe v. Ullman*, 367 U.S. 497, 542 (1961) (Harlan, J., dissenting).

Thus, the question that whether the element of ‘due process’ is offended by infringement of any constitutionally guaranteed rights of the Petitioners in these cases is a question which is dependent upon the facts of these cases, the applicable law of the land and rules/regulations framed thereunder, which are being elaborated herein below. Nonetheless, it is settled that due process is not what one contemplates to be the process to be followed, instead, it is the process, which is in adherence to the law of the land, as it stands when the law is applied.

15. At the outset, a distinction must be maintained between proceedings undertaken for assessment, determination and recovery of tax under the Ordinance, 2001 and criminal proceedings initiated under AMLA. The former determines the fiscal liability of a taxpayer, whereas, the latter investigates and prosecutes an offence created by a separate special enactment. Merely because the facts giving rise to a criminal prosecution may simultaneously entail civil or fiscal consequences does not denude the conduct of its criminal character. The Supreme Court of Pakistan in *Muhammad Ali's*¹⁵ case has reiterated that remedies arising under civil and criminal law may be pursued simultaneously though the two may overlap; they differ in their content and consequences and an act does not lose its criminal character merely because it has trappings of civil liability. Thus, pendency or availability of proceedings under the Ordinance, 2001 does not, by itself, exclude the operation of criminal proceedings initiated under a lawfully enacted and subsisting statute, where its ingredients are otherwise alleged to exist.

16. The legislative intent behind promulgation of AMLA is clear and unambiguous: that money laundering proceedings can be initiated, continued and concluded regardless of whether the scheduled offence has resulted in a conviction, in acquittal while the civil proceedings are still pending adjudication. The Scheme of AMLA envisages that while prior conviction is unnecessary, the prosecution is still required to prove a case beyond a reasonable doubt that the property/asset in question constitutes the ‘proceeds

¹⁵ *Muhammad Ali v. Samina Qasim Tarar and others* (2022 SCMR 2001)

of crime’ derived from an unlawful predicate offence activity, therefore, the prosecution cannot secure an AMLA conviction purely on suspicions and all possible doubts will lead to the logical conclusion of case being dismissed. While initiating the proceedings on the basis of AMLA, as rightly argued by the learned counsel for the respondent, the prosecution not only runs a risk of dismissal of a criminal prosecution against the accused but also have to face the logical outcome of letting go the property/asset in question as clean property. Needless to observe that such consequence will flow from the stringent tests and standards of criminal prosecution where *accused is law’s favourite child* and all possible doubts shall go in his favour, wherever the link in the chain of prosecution’s case is broken.

17. The scheme of AMLA further fortifies the above conclusion. AMLA is a special and self-contained enactment designed to prevent money laundering and to provide for attachment and forfeiture of proceeds of crime. Clause (xxvi) of Section 2 defines a “predicate offence” by reference to the offences specified in Schedule-I; clause (xxviii) defines “proceeds of crime” as property derived or obtained, directly or indirectly, from the commission of a predicate offence; whereas clause (xxx) gives an expansive meaning to “property”, including cash and monetary instruments wherever located. Significantly, Section-XXII-A of Schedule-I, inter alia, include offences under Sections 192, 192A, 194 and 199 of the Ordinance, 2001, where the tax sought to be evaded is ten million rupees or more. Section 3 then creates the substantive offence of money laundering by encompassing acquisition, conversion, possession, use or transfer of property under clause (a); concealment or disguise of its true nature, origin, location, disposition, movement or ownership under clause (b); holding such property on behalf of another under clause (c); and participation in, association with, conspiracy to commit, attempt, aiding, abetting, facilitating or counseling the commission of such acts under clause (d), of course, subject to the statutory requirement of knowing or having reason to believe that the property constitutes proceeds of crime. Explanation-I to Section 3 permits such knowledge or reason to believe to be inferred from the factual circumstances, whereas Explanation-II expressly provides that, for proving an offence under Section 3, conviction

of an accused for the respective predicate offence shall not be required. The remaining provisions complete this special statutory framework: Section 4 prescribes punishment, fine and forfeiture of the property involved; Section 8 provides for attachment of property; Section 9 contemplates issuance of show-cause notice and an opportunity to the person concerned and, through sub-section (5), cessation of attachment upon acquittal; Section 21 makes the offence cognizable and provides for registration of an FIR; Section 23 provides a remedy of appeal against an order of attachment; while Section 39 gives AMLA overriding effect. A cumulative reading of these provisions, therefore, demonstrates that the legislature has not merely created the substantive offence of money laundering but has simultaneously provided a complete mechanism for its investigation, attachment and forfeiture of property, opportunity of hearing, appellate scrutiny and eventual prosecution, while expressly dispensing with prior conviction for the predicate offence as a prerequisite for proving money laundering. In this statutory setting, the proceedings under AMLA cannot be treated merely as an extension of the assessment and recovery machinery under the Ordinance, 2001, rather, they operate within their own statutory field. A similar approach is discernible from the United Kingdom regime under the Proceeds of Crime Act, 2002 (“POCA”). Sections 327 to 329 thereof deal with money-laundering offences, whereas Section 340 operates on an all-crimes basis; thus, proceeds arising from tax evasion are not excluded merely because the underlying activity otherwise concerns legitimate trade or income. In *R v. IK*¹⁶, the Court of Appeal treated undeclared and untaxed income resulting from cheating the public revenue as “criminal property” capable of being laundered and held that a money-laundering charge was not dependent upon a prior tax assessment or conviction for the tax offence. The comparative significance of this reasoning, for the present purposes, lies in the distinction between determination of civil tax liability and criminal investigation into the character and subsequent dealing of property alleged to constitute proceeds of crime. The United Kingdom authorities further explain the evidentiary relationship between money laundering and its

¹⁶ *R v. IK*, [2007] EWCA Crim 491; [2007] 1 WLR 2262)

predicate criminality. In *R v. Anwoir and others*¹⁷, it was held that the prosecution need not necessarily establish a particular identified predicate offence; the criminal origin of the property may be proved either by evidence showing that it derives from criminal conduct of a particular kind or from circumstances from which the irresistible inference is that the property has a criminal origin. The same approach was subsequently applied where cash was intercepted without identification of a particular predicate offence, while it was also recognized that proof of a specific type of underlying criminal conduct is not invariably necessary. These authorities, though persuasive, lend comparative support to the statutory scheme embodied in Explanation-II to Section 3 of AMLA, under which conviction for the respective predicate offence is expressly not required for proving the offence of money laundering. Thus, it is reinforced that the distinction between the existence and proof of criminal origin of the alleged proceeds, which remains essential and the requirement of obtaining a prior conviction or final civil tax assessment, is not required¹⁸.

18. Bare perusal of Section 3 read with Explanation-II of AMLA clearly brings home the explicit statutory authority, thus, the legal framework separates the standalone crime of money laundering from the underlying criminal act which allegedly generates the illicit money because they are two distinct offences, money laundering and the predicate offence are tried independently or concurrently, consequently the outcome does not automatically bind the other. Likewise, the initiation and prosecution of the proceedings under AMLA cannot be directly pinned to the determination of tax liability under the provisions contained in the Ordinance, 2001. The Supreme Court of Pakistan has held in the case of *Justice Qazi Faez Issa*¹⁹ that the commission of a scheduled predicate offence is a *sine qua non* for money laundering. It is held that if there is no underlying crime, there are no proceeds of crime to launder, however, the Supreme Court of Pakistan separates the occurrence of the crime from a formal judicial conviction of that crime.

¹⁷ (*R v. Anwoir and others*, [2008] EWCA Crim 1354; [2009] 1 WLR 980

¹⁸ *R v. F and B*, [2008] EWCA Crim 1868; *R v. Craig*, [2007] EWCA Crim 2913).

¹⁹ *Justice Qazi Faez Isa v. The President of Pakistan* (PLD 2021 SC 01)

19. The perusal of the provisions contained in both Laws i.e. AMLA and Ordinance, 2001, the purpose and the genesis of the end sought to be achieved by virtue of such legislations and the material placed before this Court demonstrate that why the two jurisdictions cannot be treated as synonymous. Based on the documents and record produced before us by the respondents, specifically a comparative chart of the connected FIRs categorizing the allegations of '*Placement(getting the suspicious money)*', '*Layering (disguising the origin)*' and '*Integration(clean looking assets)*', the cases allegedly involve, not merely the non-disclosure or non-payment of tax but the dealings and actions, whereby, the alleged proceeds were introduced into the financial system, moved or disguised through different transactions and ultimately reflected or utilized in properties, vehicles, businesses, shares and other assets. At this stage, these allegations are neither being accepted as established facts nor adjudicated upon by any Court of competent jurisdiction, therefore, the alleged existence of such allegations as recorded in the FIRs cannot be construed as matter(s) of computation of tax liabilities and consequently, it fails to lead us to a sustainable ground for quashment of FIR(s). Whether the transactions actually constitute proceeds of crime and whether the alleged *placement*, *layering* or *integration* is established are matters requiring investigation and evidence and once the Challans are submitted, the Petitioners will be well within their right to file the appropriate applications in terms of Section 249-A of Cr.P.C.²⁰ Before proceeding further we deem it appropriate to observe that the aforementioned terms of '*Placement*', '*Layering*' or '*Integration*' though have not been defined under Section 2 of AMLA, however, these terms are internationally recognized by the Financial Action Task Force ("FATF") / United Nations Office on Drugs and Crime ("UNODC") to describe how laundering is typically done; these words are factual vocabulary and not element of charge. The prosecution is not required to prove placement, layering and integration, it has to prove the proceeds of crime and *mens rea*

²⁰ On the first blush it occurs as if the relevant provision is Section 265-K, Cr. P. C, however, when we considered and juxtaposed the provisions contained in the Cr.P.C with the Criminal Law Amendment Acts, 1958, the relevant provision emerges as 249-A Cr.P.C but since it is not a question we are asked to decide here, therefore, we are not burdening this judgment on further discussion about this issue. Hence, it may not be treated the ratio of this Judgment.

in terms of Section 3 of AMLA. Clause (a) of Section 3 uses the term ‘*acquire*’.....‘*possesses*’ ‘*property*’ which refers to ‘*placement*’ in terms of the FATF regime for cash deposits relating to illicit money; likewise, the words employed in clauses (a) & (b) i.e. ‘*converts or transfers*’, *conceals or disguises the true nature, origin, location, disposition, movement or ownership*’ are the elements of *layering*, sought to be achieved by forged documents, baseless sales, untenable gifts and circular sales; similarly, the words employed e.g. ‘*uses property*’ (acquiring assets so the money looks lawful) is ‘*integration*’.

20. Another important statutory underpinning is that the relevant provisions under the Ordinance, 2001 i.e. Sections 192, 192A, 194, 199 have been inserted in Schedule-I to AMLA as per the mandate and authority conferred by the legislature by virtue of amendment/insertion of the relevant subject matter in Section-XII-A of the Schedule-I in terms of Section 42, read with clause (xxvi) of Section 2 of AMLA. By virtue of such inclusion, the aforesaid sections have been added in the definition of predicate offence, thus, the same cannot be rendered ineffective by importing into AMLA a condition precedent which its text does not expressly prescribes. Once the legislature has designated particular offences as predicate offence for the purposes of AMLA, proceedings *qua* the allegations of money laundering have to be examined within the statutory framework of AMLA. The fiscal consequences of the underlying transactions and the criminal consequences of dealing with alleged proceeds operate in their respective statutory fields.

21. The apprehension that such investigation leaves a person without protection is also not borne out from the statutory scheme. Before proceeding to dilate upon this particular question, we want to record a specific statement made by the authorized officers of the respondent Department in presence of learned counsel for the respondent, who affirmed the same during the course of hearing that the respondents have throughout acted with restraint and will continue to abide by that arrangement as the respondents do not intend to arrest the petitioners, however, such a course and statement is conditional upon the petitioners joining the investigation.

Without prejudice to the foregoing, AMLA provides its own safeguards, procedure and remedies. Sections 8 and 9 of AMLA regulate attachment and the consequential proceedings concerning property alleged to constitute proceeds of crime, while Section 23 of AMLA also provides a statutory appellate remedy before the High Court. The existence of such safeguards assumes importance while considering the argument that the entire statutory process be terminated at its inception through invocation of Constitutional jurisdiction.

22. The commission of a predicate offence is undoubtedly foundational to proceedings under AMLA as the proceeds of crime must necessarily trace their origin to such offence, nonetheless, it is distinct from requiring the entire civil or fiscal adjudicatory process concerning the predicate offence to first attain finality before the investigating agency may even inquire into the offence of money laundering. Whether a person is in possession of property derived from or representing proceeds of crime is essentially a question of fact to be determined on the basis of material collected during investigation. The statutory requirement of existence of a predicate offence, therefore, cannot be stretched to mean that investigation into the independent offence of money laundering must invariably remain in abeyance until culmination of all proceedings relating to the predicate offence. In this regard, we have considered the judgment handed down by the learned Single Judge in Chambers of this Court in Abdul Saboor's²¹ case and are of the opinion that the findings rendered therein are in consonance with the settled principles of law and are based on true appreciation of the statutory scheme envisaged in AMLA and the Ordinance, 2001.

23. It is in the fitness of things to deal with the objection raised by the Petitioners regarding the use of expressions such as “*Police Station*”, “*Police Officer*”, “*Investigating Officer*” and “*Complaint*”, by borrowing their meaning from Cr.P.C. or another enactment. This submission has no lawful force without first examining the scheme in which those expressions have been employed. Clause (xviii) of Section 2 of AMLA defines ‘*investigating*

²¹ Abdul Saboor v. Federation of Pakistan and others (PLD 2024 Lahore 244)

or prosecuting agency', which includes DG I&I, similarly the offence of money laundering has been defined in Section 3 of AMLA. Under AMLA, the criminal prosecution for money laundering does not follow standard criminal procedure in isolation. Unlike the ordinary lodging of an FIR under section 154 of the Cr.P.C, investigation and prosecution under AMLA is rooted in separate process and steps before initiation of the process of prosecution; it involves the triggering phase of intelligence and report by means of STRs at the outset, generated by Financial Institutions and designated non-financial businesses and professions, which monitor transactions and if a red flag is raised regarding the illicit origin of the asset a Cash Threshold Report (CTR) or STR, as the case may be, is generated. The STR is then routed to FMU, which analyzes the case. It is of note that the procedure and manner of furnishing information by reporting entities is regulated in terms of the provisions contained in Section 7 and Section 7-A to 7-J, of AMLA and no unbridled, unchecked or unregulated use of authority and domain of exercise of discretion is available, rather the same is confined within the statutory contours and conspicuous checks and balances. Learned counsel for the respondents has placed on record the documents and information, which have not been refuted by way of calling the same in question. The information so supplied depicts that FMU, while exercising its jurisdiction under Section 6 of AMLA uses specialized software to trace the flow of funds and match names against master domestic profiles; following that, the process of compiling of financial intelligence is undertaken and only if the transaction in issue reflects an outright pattern of criminal concealment and layering, the FMU creates a file for further processing and thereafter if FMU determines that underlying transaction involves predicate offence of money laundering and proceeds of crime are *prima facie* involved, the matter is forwarded to DG I&I. Once the DG I&I receives the report, the assigned Investigating Officer issues notices to the accused to explain the source of detected assets/funds/property; if no explanation is rendered or the explanation provided is unsatisfactory, the inquiry formally evolves into a full scale AMLA Investigation as it shifts from an intelligence handling process to a formal statutory criminal inquiry, Thus, the element of

mala fide is relatively minimal if not absent in such cases. The first adverse action against an accused is contemplated under Section 8 of AMLA, whereby, an order of attachment of property may be passed but this authority is also circumscribed by definite statutory safeguards and intervention/permission by the Court. Therefore, we have no hesitation to hold on the basis of well settled principle of law that a statutory expression derives its content from the enactment in which it occurs, its context and the object sought to be achieved. A definition appearing in another statute cannot ordinarily be imported for interpreting an expression in the statute under consideration unless the enactments are *pari materia*; where the word is undefined, its meaning has to be gathered from its ordinary meaning read in the relevant statutory context²². The same word may carry different meanings under different enactments and a meaning judicially assigned to an expression for purposes of one statutory scheme cannot necessarily be transplanted into another where doing so would disturb the latter's scheme and object²³. The objection founded merely upon terminology used in the general criminal law, therefore, cannot override the mechanism specifically created by AMLA. Comparative analysis may also be drawn from the Indian jurisdiction, where the Supreme Court of India, while examining the Prevention of Money-Laundering Act, 2002 (“PMLA”) in Vijay Madanlal Choudhary’s²⁴ case, treated the legislation as a special and self-contained statutory regime whose prescribed procedure prevails over the general procedure under the Code of Criminal Procedure. It was further recognized that officers exercising investigative powers under the PMLA are not police officers undertaking an ordinary investigation under the general criminal law; consequently, absence of the conventional FIR mechanism does not prevent proceedings by the designated agency under the special enactment.

24. This leads us to another settled principle of law i.e. ***generalia specialibus non derogant*** (*General provisions do not derogate from special provisions*). Where a special enactment creates a right, liability or offence and simultaneously provides the machinery and procedure for its

²² Messrs Pak Telecom Mobile Limited v. Commissioner Inland Revenue (2025 PTD 1491)

²³ Qasim International Container Terminal Pakistan Ltd. v. Federation of Pakistan (2020 PTD 1952)

²⁴ Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1)

enforcement, the specific provisions of that enactment take precedence over the general law to the extent of inconsistency if any²⁵. Consequently, the procedure expressly contemplated by AMLA cannot be displaced merely by invoking a different procedure available under the general criminal law i.e. Cr.P.C. or the taxing statute under Ordinance, 2001. DG I&I is the investigating and prosecuting agency under AMLA for the purpose of investigating the offence of money laundering, it has the necessary expertise to investigate the matter underlying the offence of money laundering. The offence of money laundering is inextricably linked to and dependent upon the predicate offence, therefore, any investigation must necessarily be conducted in respect of the latter by the Investigation Officer under AMLA.

25. The distinction assumes greater significance when the scheme of AMLA is examined in the context that AMLA is a special law enacted subsequent in time to the Ordinance, 2001, specifically to criminalize money laundering and to provide a mechanism concerning proceeds of crime. It is well settled that a subsequent special enactment operates according to its own legislative fiat and provisions of an earlier law cannot be stretched to defeat the same²⁶. The object of AMLA is materially different from the mere assessment or recovery of tax and is specifically directed towards prevention of money laundering, the attachment and confiscation of property generated from proceeds of crime having its genesis in a predicate offence²⁷. It is a well settled principle of interpretation of statute that a special law cannot be made dependent on a general law for its application. The principle of *primacy of special law* denotes that when a matter is governed by a targeted, special law and a broad general law, the special law operates as a complete and self-contained code for that specific subject and takes precedence. Similarly, the legal canon of *anti-frustration* logic requires that a special law may not be rendered dependent on the application of general law. To allow a general law or its provisions to dictate the terms, timings or validity of a special law, degrades the clarity of the special statute and results in judicial

²⁵ *Gulistan Textile Mills Ltd. v. Soneri Bank Ltd.* (PLD 2018 SC 322); “*Sui Northern Gas Pipelines Ltd. v. S.K. (Pvt.) Ltd.*” (2025 SCMR 570)

²⁶ *Messrs Tank Steel and Re-Rolling Mills (Pvt.) Ltd. v. Federation of Pakistan and others* (PLD 1996 SC 77)

²⁷ *Abdul Saboor v. Federation of Pakistan and others* (PLD 2024 Lahore 244)

re-writing of legislative priorities.²⁸ The test of frustration requires that the Courts must resist reading general law in a manner that “throttles the special law”. The core legal doctrine which needs to be considered is that if the application of the special law is made contingent upon conditions outlined in a general law, the very purpose of creating a distinct, specialized legal mechanism is defeated.²⁹ When a special enactment is passed by the legislature, it represents the absolute will of the legislature regarding that exact topic and if an interpreter seeks to create “*chain of dependency*” where the special law cannot move until a general law term is applied, it creates a logical fallacy, thus, if the legislature wanted the general law to dictate terms, it would not have bothered to draft a separate, distinct special enactment.³⁰ We are of the considered opinion that the clear intent of the legislature, which arises out of the purpose, scope and provisions of AMLA provides prevention of money laundering and not to enforce the tax statutes.

26. To examine the plea of quashment of FIRs, the grounds have to be appreciated within the settled contours of jurisdiction under Article 199 of the Constitution. There is no cavil with the proposition that registration of an FIR and conduct of investigation are amenable to judicial review and may be declared without lawful authority where the jurisdictional prerequisites for such interference are unquestionably established.³¹ However, amenability to judicial review is altogether different from substituting constitutional jurisdiction for the statutory process of investigation and trial. This Court, while exercising Constitutional jurisdiction cannot assume the role of an investigating agency and quash FIR, save in very exceptional circumstances.³² It is well settled by now that short-circuiting the normal procedure prescribed by law through exercise of equitable jurisdiction is impermissible. The foregoing principle gains an overarching force where the controversy requires investigation into disputed facts and evaluation of evidentiary material. Where an offence is *prima facie* disclosed, the ordinary

²⁸ *Reading Law: The Interpretation of Legal Texts* by Antonin Scalia & Brian A Garner; Published by Thomson/West

²⁹ *Principles of Statutory Interpretations (13th Edition)*; Justice G.P Singh; Published by LexisNexis.

³⁰ *The Construction of Statutes* by Earl T. Crawford.

³¹ *F.I.A. through Director General v. Syed Hamid Ali Shah and others* (PLD 2023 SC 265)

³² *Dr. Ghulam Mustafa v. The State and others* (2008 SCMR 76)

course of criminal proceedings should not be deflected by resort to constitutional jurisdiction and that the High Court cannot undertake appreciation of disputed documents in order to quash an FIR.³³ There is a long line of judgments, whereby, the Supreme Court of Pakistan has disapproved the quashment of FIRs by the High Court while the investigation was incomplete and it has been observed that further investigation could bring additional material on record and that questions requiring evidence were appropriately left to the trial Court.³⁴ These settled principles assume even more significance where the proceedings arise under a special enactment containing its own investigative mechanism, adjudicatory forum and remedies. Constitutional jurisdiction cannot ordinarily be employed to undertake, in advance, the factual inquiry which the special statute entrusts to the investigating agency and the competent Court. The principal objective of registration of FIR is to set the law in motion for initiation of investigation for the purpose of collecting evidence.³⁵

27. Viewed against the above legal position, the allegations contained in the respective FIRs *prima facie* invoke offences which have been brought within Schedule-I to AMLA; the respondents claim material extending beyond mere computation or recovery of tax and involving alleged placement, layering and integration of proceeds; AMLA provides a special investigative and remedial framework together with statutory safeguards; and several factual controversies raised by the petitioners require examination of evidence. This Court, in exercise of judicial review jurisdiction under Article 199 of the Constitution, cannot assume the functions entrusted by law to the investigating agency and the competent Special Court. No exceptional circumstance has been made out warranting short-circuiting of the statutory process and quashing of the impugned proceedings at this stage.

³³ *Col. Shah Sadiq v. Muhammad Ashiq and others* (2006 SCMR 276)

³⁴ *Muhammad Ali v. Samina Qasim Tarar and others* (2022 SCMR 2001)

³⁵ *Muhammad Bashir v. Station House Officer Okara Cantt and others* (PLD 2007 SC 539)

28. Adverting to the principal reliance of the petitioners upon the landmark judgment of *Taj International supra*³⁶, the said judgment arose within the statutory scheme of the *Sales Tax Act, 1990*. Respectfully, its reasoning is linked to the scheme governing assessment, determination of tax liability and initiation of criminal proceedings under that enactment at the relevant time. On the contrary, AMLA neither constitutes the machinery for assessment of sales tax or income tax nor makes prosecution for money laundering merely another mode for recovery of such tax. It creates an independent offence directed towards proceeds of crime and their subsequent dealing in the manner contemplated by a special law. More importantly, the statutory provision considered in *Taj International supra*, particularly Section 37A of the *Sales Tax Act, 1990*, has subsequently undergone changes by virtue of amendments therein. Respectfully, a judgment cannot be generalized beyond its context, as it is only applicable to the situation at hand and does not serve as a precedent for matters that lie outside its explicit scope. This principle underscores the limited applicability of judgments and reinforces the need for careful analysis when considering their implications in future cases³⁷. The ratio of a judgment rendered upon a statutory provision is to be understood with reference to the text of the law interpreted therein; where the legislature subsequently alters the material statutory scheme, the earlier interpretation, with respect and reverence, cannot be extended to proceedings governed by the amended provision, much less transplanted wholesomely into another special enactment having different genesis, object, ingredients, procedure and remedies. In view of the above reasoning that AMLA being a special enactment cannot be rendered dependent upon the provisions of the Ordinance, 2001, the *ratio decidendi* of *Taj International* is not attracted in the case in hand as it is well settled that a case is only authority for what it actually decides and cannot be cited as precedent for a proposition that may be inferred from it.³⁸ *Taj International*

³⁶ (2025 PTD 1270)

³⁷ *Muhammad Shakeel and others v. Additional District Judge, Faisalabad and others* (PLD 2025 SC 572=2025 SCP 35)

³⁸ *Syed Hammad Nabi and others vs Inspector General of Police Punjab, Lahore and others* (2023 SCMR 584), *Naubahar Bottling Company (Pvt.) Limited and others v. Federation of Pakistan through Revenue Division Ministry of Finance and others* (2022 SCMR 765), *Quinn v Leathem* (1901 AC 495); *Trustees of the Port of Karachi v. Muhammad Saleem* (1994 SCMR 2213); *Sindh High Court Bar Association through*

supra, therefore, does not furnish a basis for laying down an absolute proposition that no investigation under AMLA can commence until fiscal proceedings under the Ordinance, 2001 have culminated in the final determination of tax liability. The *ratio decidendi* of Taj International rests upon four features peculiar to the Sales Tax Act, 1990, namely, its charging-and-assessment scheme, linkage of punishment with the quantified tax, statutory compounding dependent upon determination of tax due, and recovery-oriented offences, whereas, none of these features exists under AMLA, therefore, the petitioner's reliance upon Taj International is misconceived.

29. There is yet another aspect of the Petitioners' submissions. The reasoning and grounds contemplated by the Petitioners would effectively make the exercise of powers expressly conferred under AMLA contingent upon completion and finality of proceedings under another enactment, although the legislature, while including the relevant offences in Schedule-I to AMLA, has not expressly prescribed such a condition. This attempted construction would also conflate two distinct inquiries: determination of fiscal liability under the Ordinance, 2001 and determination whether property constitutes proceeds of crime and has thereafter been dealt with so as to attract the ingredients of money laundering. The Court cannot, under the guise of interpretation, insert into a special penal enactment a jurisdictional precondition which does not emerge from its statutory scheme.

30. At the same time, the above observations should not be understood as dispensing with the statutory requirement of a predicate offence or relieving the prosecution of its burden of proof to establish every ingredient of the offence under AMLA. Whether the assets/funds alleged in the respective FIRs constitute proceeds of crime; whether the scheduled offence is made out; whether the transactions relied upon constitute placement, layering or integration and whether the explanation and documents produced by each petitioner satisfactorily account for the transactions, are questions to be

its Secretary and another v. Federation of Pakistan through Secretary, Ministry of Law and Justice, Islamabad and others (PLD 2009 SC 879) per Ch. Ijaz Ahmed J., *Mst. Muhammadi and others v. Ghulam Nabi* (2007 SCMR 761),

determined in accordance with law on the basis of the material collected during investigation and where proceedings culminate in prosecution, evidence produced before the competent Court. Any finding by this Court upon those matters at this stage would amount to entering into the merits of an incomplete criminal process.

31. Much emphasis has been laid by the Petitioners' while placing reliance upon judgment dated 27.02.2026 passed in Criminal Petition No.174/2026 titled "Shahid Ch. v. the State through Special Prosecutor Customs Lahore". It is respectfully held that the findings rendered in the aforesaid judgment essentially relate to a criminal petition for leave to appeal under Article 185(3) of the Constitution against an order passed by a learned Single Judge-in-Chambers of this Court, whereby the pre-arrest bail petition filed in FIR No.2 dated 10.02.2022 registered for the offence under Sections 3, 4 of AMLA was dismissed, however, the Hon'ble Supreme Court of Pakistan granted the pre-arrest bail to the petitioner while holding that the petitioner has made out a case of further inquiry. Similarly, the Order dated 17.02.2026 passed in Criminal Petition No.120/26 titled "Arshad Aziz Abbasi and others v. The Special Judge, Customs, Taxation and Anti-Smuggling-I, Karachi" was directed against an order dated 12.01.2026 passed by the learned Single Judge in Chambers of High Court of Sindh at Karachi, whereby grant of ad-interim relief, seeking suspension of an order of attachment of the properties of the petitioners therein passed by the learned Special Judge (Customs, Taxation and Anti-Smuggling-I) under Section 8 of AMLA was declined by High Court while exercising appellate jurisdiction under Section 23 of AMLA. The Hon'ble Supreme Court of Pakistan, while deciding the above mentioned Crl. Petition had simply suspended the operation of the order of attachment passed by the learned Special Judge till the final decision of special criminal appeal pending before the learned Single Judge of the High Court of Sindh at Karachi. The same order has been upheld vide order dated 13.05.2026 passed in CrI.R.P. No.34/26 in CrI. Petition No.120/26 titled "Directorate of Intelligence and Investigation Inland Revenue, Karachi v. Arshad Aziz Abbasi". Thus, the reliance placed upon the said judgment and orders of the

Hon'ble Supreme Court of Pakistan is misplaced for seeking the relief of quashment of FIRs in issue.

32. For what has been discussed above, these Constitutional Petitions are found to be without merit and are accordingly **dismissed**. It is, however, clarified that the observations made herein are confined to the determination of the questions raised before this Court and shall not prejudice the respective cases of the parties before the investigating agency or the competent Court, which shall proceed strictly in accordance with law and decide the matter on the basis of the material and evidence brought before them.

(Hassan Nawaz Makhdoom)
Judge

(Khalid Ishaq)
Judge

The judgment in these cases were reserved on 02.07.2026, which was the last day before summer vacation, 2026 and announced in open Court today i.e. on **24.09.2026.**

(Hassan Nawaz Makhdoom)
Judge

(Khalid Ishaq)
Judge

APPROVED FOR REPORTING.

(Hassan Nawaz Makhdoom)
Judge

(Khalid Ishaq)
Judge

F. Waiz!