

# DHA Islamabad Is Not a Local Authority for Section 49 Income Tax Exemption: Supreme Court

The Supreme Court dismissed DHA Islamabad's four tax appeals, holding that local development functions alone do not establish the statutory attributes of a local authority for section 49(2) exemption.

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Supreme Court of Pakistan | Civil Appeals Nos. 1309 to 1312 of 2019

Decided 17 August 2026 | Published 23 September 2026

## What the Supreme Court decided

The Supreme Court of Pakistan dismissed four appeals by Defence Housing Authority, Islamabad (DHA), and rejected its claim to an income tax exemption under section 49(2) of the Income Tax Ordinance, 2001 for Tax Years 2005 to 2008. DHA did not establish that it was a "local authority" within the meaning required for that exemption.

The decisive distinction is between a body that carries out development or civic work in a defined area and a legally constituted local authority with the substantive powers associated with local self-government. The former does not automatically qualify as the latter. The materials placed before the Court did not show DHA's legal entitlement to control or manage a municipal or local fund, a legal power to levy a cess, rate, duty or tax within a local area, or comparable substantial characteristics.

The decision was given on 17 August 2026 by a bench of Chief Justice Yahya Afridi, Justice Naeem Akhter Afghan and Justice Muhammad Shafi Siddiqui. Justice Muhammad Shafi Siddiqui authored the judgment, which was approved for reporting. The supplied copy does not state a reported citation.

## The dispute across four tax years

DHA Islamabad filed returns for Tax Years 2005, 2006, 2007 and 2008 claiming exemption as a local authority under section 49(2). Those returns were initially treated as assessments under section 120 of the Ordinance. The tax authorities then amended the assessments under section 122(5A), treating them as erroneous and prejudicial to Revenue because DHA did not, in their view, qualify as a local authority.

The Commissioner of Income Tax (Appeals-I), Islamabad accepted DHA's position in orders dated 16 March 2009 for the first three tax years and 15 January 2010 for Tax Year 2008. The Appellate Tribunal Inland Revenue affirmed those orders through a consolidated decision dated 18 January 2012.

Revenue brought income tax references before the Islamabad High Court. On 14 January 2019, the High Court answered the common question against DHA and rejected the claimed status for section 49 purposes. DHA appealed. The Supreme Court's judgment in Civil Appeals Nos. 1309 to 1312 of 2019 affirms that result.

## What section 49(2) exempts

Section 49(2), as reproduced in the judgment for the relevant period, exempts the income of a Provincial Government or a local authority in Pakistan, subject to its express exception for business income derived from a business carried on outside its jurisdictional area.

The first question was therefore whether DHA was a local authority at all. The Court did not decide that every receipt of a local authority is invariably exempt. Nor did it undertake a separate head-by-head determination of DHA's business receipts. The appeals failed at the threshold status question.

Section 49(3) deals with advance tax collection or deduction from payments received by the specified governments or a local authority, subject to subsection (2). The present controversy centred on DHA's claim to the subsection (2) exemption.

## **A defined area and public functions are not enough**

DHA argued that it was constituted under law and performed development, planning, regulation and administration in a geographically defined area. Its counsel submitted that the expression "local authority" should not be read narrowly, and relied on the favourable findings of the first appellate authority and Tribunal.

Revenue responded that territorial operation and public-facing work alone do not confer local-authority status. The Court agreed that these characteristics, without the legal attributes of local self-government, could not establish the exemption.

This is a substantive rather than a label-based inquiry. Calling an entity an authority, showing that it is statutory, or identifying a bounded service area cannot replace proof of the powers vested in it by its governing law.

## **The General Clauses Act definition**

Section 3(28) of the General Clauses Act, 1897 includes specified municipal bodies and an "other authority" legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.

The Court stressed that the fund requirement applies to the residual category of "other authority". A fund associated with an organisation is not necessarily a municipal or local fund of the character contemplated by the definition. The legal entitlement or government entrustment, and the fund's legal nature, have to be shown.

On the material before it, DHA had not demonstrated such legal control or management. The finding is about the proof and powers established in these appeals, not an assertion that DHA has no funds or performs no public work.

## **The Local Authorities Loans Act definition**

Section 2 of the Local Authorities Loans Act, 1914 describes two alternative attributes: legal entitlement to control or manage a local or municipal fund, or legal entitlement to impose a cess, rate, duty or tax within a local area.

The Court distinguished a legally imposed tax or rate from charges collected while performing an organisation's functions. The mere collection of money, by itself, does not reveal the legal character of the charge or establish a statutory power to tax. DHA did not demonstrate the relevant legal entitlement to control a municipal or local fund or the alternative power to impose a cess, rate, duty or tax.

That distinction matters beyond this dispute. A statutory body may have income, fees, service charges, a budget and public obligations without necessarily acquiring the fiscal or governmental authority needed for this particular tax exemption.

## **How earlier Supreme Court cases were applied**

In *Deputy Managing Director, National Bank of Pakistan v. Ataul Huq*, PLD 1965 SC 201, the Supreme Court described local authorities as bodies entrusted with administration of a local fund and ordinarily exercising delegated functions of self-government in a limited territory. The Bank's corporate status and governmental involvement in its management did not make it a local authority.

In *Commissioner of Income Tax v. Chief Secretary, Government of the Punjab*, 1981 PTD 66, the Thal Development Authority qualified because its governing statute conferred wide powers, including taxation and an authority fund, along with extensive local-development functions. The judgment did not say that development activity alone suffices.

In *Province of Punjab v. Market Committee*, 2011 SCMR 1856, the Court identified a combination of characteristics: separate juristic personality, territorial functions, self-government and bye-law powers, and powers to impose fees or taxes and maintain a fund. These characteristics must be predominantly and substantially present; an isolated feature or title is insufficient.

The Supreme Court found that DHA had not placed material demonstrating comparable statutory powers or a predominant and substantial combination of those characteristics. The Thal Development Authority and Market Committee authorities therefore did not establish DHA's claimed status.

## **The key contrast: locality versus local self-government**

The judgment draws a useful line. An entity can carry out work for residents of one area without being entrusted with a sphere of local self-government. The place where it acts and the public value of its work are relevant background facts, but the decisive issue is the legal nature and extent of the powers delegated to it.

For a body claiming this exemption, the relevant statute and supporting record should be examined for legal power over a municipal or local fund, the legal basis of any cess, rate, duty or tax, authority to make bye-laws, and any substantive functions of self-government. The Court's analysis asks for the actual legal powers, not a loose analogy to a municipality.

## **Why the lower appellate findings did not survive**

The Commissioner (Appeals) and Tribunal considered statutory definitions and accepted DHA's claim. The Islamabad High Court took the opposite view. The Supreme Court held that the necessary legal attributes had not been established on the material placed before it and declined to disturb the High Court's conclusion.

The result should not be paraphrased as a finding that all statutory authorities are taxable or that no development authority can ever be a local authority. The judgment turns on the statutory definition, the governing powers and the record concerning this appellant. A differently constituted body with provable local fund and taxing or self-government powers requires its own analysis.

## **Practical implications for tax and public bodies**

Where a public, housing or development body claims an exemption tied to local-authority status, it should identify the precise provision granting each asserted power and produce the legislation, rules or legally relevant entrustment establishing its fund and taxing authority. A balance sheet or evidence of collections is not necessarily proof of a municipal fund or a statutory tax.

Tax officers should similarly analyse the body's governing law rather than rely only on its corporate form, territory or services. The nature of each charge and the power by which it is imposed may matter. The test is legal entitlement and substantive authority, not whether an institution seems to perform useful local functions.

For older assessments, the version of section 49 and other provisions applicable to each tax year must be checked. The judgment addresses Tax Years 2005 to 2008 on the record before the Court; later statutory amendments or materially different governing instruments should not be ignored.

## **Final outcome and source note**

The Supreme Court dismissed Civil Appeals Nos. 1309 to 1312 of 2019. DHA Islamabad failed to establish local-authority status under section 49(2), so the income tax exemption claimed on that basis was unavailable. The Islamabad High Court's adverse conclusion was left in place.

This analysis is based on the complete supplied ten-page judgment dated 17 August 2026, approved for reporting. The uploaded filename contains 23 September 2026, but that is not the date of the Court's decision. No reported citation appears in the supplied copy. The original judgment, the relevant historic statutory text, and the governing instruments for a particular entity should be checked before relying on this discussion in proceedings.