

E-Taxation

(online tax cases journal)

Huzaima & Ikram
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- **LAHORE HIGH COURT, LAHORE**

Honda Atlas Cars (Pakistan) Limited
v.
Federation of Pakistan and Others
W.P. No. 24928 of 2026

Kind Regards,

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Lahore High Court, Lahore

Honda Atlas Cars (Pakistan) Limited v. Federation of Pakistan & others

Writ Petition No. 24928 of 2026, decided on 30.04.2026

Coram: Malik Javid Iqbal Wains & Abid Aziz Sheikh, JJ.

INCOME TAX ORDINANCE, 2001 — SECTION 205 — DEFAULT SURCHARGE — SUPER TAX UNDER SECTION 4C — PAYMENT MADE UNDER JUDICIAL ORDERS — WHETHER DEFAULT SURCHARGE CAN BE LEVIED

Statutory Provisions:

Income Tax Ordinance, 2001 — Sections 4C & 205.

Head Notes

— Recovery of default surcharge under section 205 of the Income Tax Ordinance, 2001 was challenged where the petitioner had deposited super tax liability in compliance with interim and final judicial orders passed by the Lahore High Court and the Hon'ble Supreme Court/Federal Constitutional Court.

— The Lahore High Court observed that the expression “fails to pay” occurring in section 205(1) necessarily imports a default attributable to negligence, refusal or inexcusable omission on the part of the taxpayer. Mere deferment of payment owing to subsisting judicial orders does not constitute default within the contemplation of section 205.

— Where tax liability remained regulated by interim judicial protection and payments were made strictly in accordance with court directions, invocation of section 205 for levy of default surcharge lacked lawful authority.

— The Court held that no willful default or withholding of payment could be attributed to the petitioner when the disputed amount was deposited immediately upon final adjudication of the matter by the Federal Constitutional Court.

— Existence of factual controversy regarding compliance with judicial orders and timelines warranted examination by the competent authority after affording opportunity to the taxpayer to furnish all relevant documents and information.

— Writ petition was disposed of with directions to the petitioner to respond to the impugned notice within ten days and to the departmental authority to pass a reasoned and speaking order after verifying relevant facts, circumstances and judicial orders. Till such determination, no recovery of default surcharge was permitted.

Ratio Decidendi

Levy of default surcharge under section 205 of the Income Tax Ordinance, 2001 is contingent upon existence of an actual default attributable to the taxpayer. Where delayed payment of tax results from and remains governed by subsisting judicial orders, and the taxpayer complies with such orders in letter and spirit, no “failure to pay” occurs within the meaning of section 205; consequently, recovery of default surcharge in such circumstances is without lawful authority.

Form No.HCJD/C-121

ORDER SHEET

**LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT**

Writ Petition No. 24928 of 2026.

Honda Atlas Cars (Pakistan) Limited *vs.* Federation of Pakistan & others

Sr. No. of order/ proceedings	Date of order/ proceedings	Order with Signature of Judge, and that of parties or counsel, where necessary.
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30.04.2026. Ms. Subhe Nasib, Advocate for the petitioner.
Ms. Deebe Tasnim Anwar, Assistant Attorney-General for Pakistan.
Barrister Muhammad Nauman Khan, Advocate/Legal Advisor for the respondents-FBR.

Through this constitutional petition, the petitioner has challenged the legality and validity of Notice dated 02.04.2026, relating to Tax Year 2022, issued under Section 205 of the Income Tax Ordinance, 2001 ("Ordinance") for the recovery of default surcharge ("impugned notice").

2. Learned counsel for the petitioner submits that in respect of levy under Section 4C of the Ordinance for Tax Year 2022, notices were issued whereafter various constitutional petitions, including Writ Petition No.83141/2022 (relating to Tax Year 2022) was instituted, and vide order dated 28.12.2022, passed in the afore-noted matter, this Court granted interim relief, whereby subject to deposit of post-dated cheques, the recovery of Super Tax against the petitioner was stayed; consequently, the petitioner deposited the postdated cheques. Subsequently in I.C.A.No.55290/2023, stay was again granted on 06.09.2023 and later on petitioner deposited 50% of the super tax liability in compliance with the order dated 06.02.2023, passed by the Supreme Court and, upon final adjudication of the matter by the Hon'ble Federal Constitutional Court of Pakistan, vide order dated 27.01.2026, deposited the

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remaining disputed amount forthwith and without any delay. Learned counsel submits that now the grievance of petitioner arises from the issuance of the impugned notice, seeking recovery of default surcharge on the erroneous premise that the petitioner had failed to discharge the tax liability within time. It is argued that such premise is wholly misconceived and contrary to law and the record, as the petitioner's payment obligations remained governed and regulated by and subject to the orders passed by this Court as well as the Supreme Court, which were duly complied with by the petitioner. Learned counsel further submits that Section 205(1) of the Ordinance contemplates levy of default surcharge only where a person "fails to pay" the tax due, which expression necessarily imports a default attributable to negligence, refusal, or inexcusable failure on the part of the taxpayer; however, no such element is attracted in the present case, as there was neither any willful default nor any withholding of payment by the petitioner; rather, payments were made strictly in terms of judicial orders and the balance amount was deposited immediately upon final decision of the matter, therefore, the very foundation for invocation of Section 205 of the Ordinance is absent, rendering the impugned notices for recovery of default surcharge without lawful authority and of no legal effect.

3. Learned counsel for the respondents submits that being factual controversy involved, this fact is required to be verified by the concerned department; hence, the petitioner should respond to the impugned notice and also provide all relevant information/ documents before the competent authority, enabling it to examine the matter in accordance with law and pass appropriate orders thereon. This arrangement is also acceptable to the learned counsel for the petitioner.

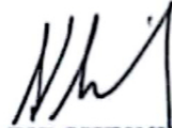
4. Accordingly, in view of the above, this Writ Petition is disposed of with direction that the petitioner may respond to the

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impugned Notice within a period of ten (10) days from today and thereafter, respondent No.3 shall consider the same, verify the relevant facts and circumstances as well as judicial orders, and pass a reasoned and speaking order thereon strictly in accordance with law, expeditiously, preferably within a period of fifteen (15) days from the date of filing of reply. It is further directed that till the matter is decided by respondent No.3, no amount on account of default surcharge shall be recovered from the petitioner. However, it clarified that if no reply is filed within the stipulated time period, this interim arrangement shall automatically cease to operate and the respondents shall be at liberty to proceed further in accordance with law.



(MALIK JAVID IQBAL WAINS)
JUDGE



(ABID AZIZ SHEIKH)
JUDGE

YUB