

ORDER SHEET
IN THE LAHORE HIGH COURT LAHORE.
JUDICIAL DEPARTMENT

W.P. No. 46682 of 2025

M/s. IDEAS (Pvt.) Ltd. **Versus** Govt. of the Punjab etc.

Sr. No. of Order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties or counsel, where necessary
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11.08.2025. Dr. Shahab Imam and Mudassar Jan, Advocates for the
petitioner
Mr. Imran Khan, Assistant Advocate General

Through this constitutional petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan (**Constitution**), the petitioner has questioned the vires of amendments brought about in Section 3, read with Second Schedule (Part I) of Punjab Sales Tax on Services Act, 2012 (**Act**) by virtue of the Punjab Finance Act, 2025 on the ground that renting of immovable property could not be categorized as a service, hence the same is outside the applicability and scope of tax on services, in terms of the provisions contained in the Act; further submits that an identical amendment was brought about in Sindh Sales Tax on Services Act, 2011, which was challenged by various taxpayers before the High Court of Sindh at Karachi; adds that the questions, as agitated through the constitutional petition in hand, have been enunciated by the High Court of Sindh at Karachi in the case of Young's Pvt. Ltd. v. Province of Sindh and others (2019 PTD 389), which has been upheld upto the Supreme Court of Pakistan; finally submits that the attempt to tax the immoveable property by virtue of the impugned amendment is in violation of Article 142 read with Entry 47 Part I of the Fourth Schedule of the Constitution.

2. Conversely, learned law officer submits that the judgment in *Young's case* is distinguishable; adds that

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the pith and substance of the *Young's judgment supra* is that the '*Economic Activity*', as couched in the provisions contained in the Sindh Sales Tax on Services Act, 2011, does not include the immovable property(s) and only relates to moveable property(s), whereas, in the Punjab Sales Tax on Services Act, 2012, certain amendments were brought in section 6 by virtue of Punjab Finance Act, 2018, whereby the words 'immovable property(s)' were specifically inserted in clause (b) of sub-section 1 of Section 6 of the Act *ibid*.

3. Points raised needs consideration. Issue notice to the respondents through ordinary mode, registered post and courtier service at the expense of the petitioner, which shall be deposited by next week.

4. Since the question of vires of the impugned amendment has been agitated, therefore, notice in terms of Order XXVII-A of the Code of Civil Procedure, 1908 (C.P.C.) is also issued to learned Advocate General Punjab.

5. Relist for 16.09.2025.

CM No. 1 of 2025

6. Learned counsel for the petitioner seeks grant of interim relief, however, he was confronted that the impugned provisions, the vires whereof have been questioned through this constitutional petition, have become part of the Act and will remain a valid part of the Statute, unless finally declared otherwise as the presumption of constitutionality is attached to it. It is a settled proposition of law that until and unless a Statute or a part of it has been held or declared to be *ultra vires*, the same remains operative for all intents and purposes. The present application is to be decided keeping in view the three main ingredients for passing an injunctive order i.e. *prima facie* case, balance of convenience and

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irreparable loss. Insofar as the *prima facie* case is concerned, the petitioner has been unable to make out any such case as it is merely a challenge to the constitutionality of a law validly enacted by the Provincial Legislature. It may be that the petitioner will have a better reading of the law, but that would not make out a *prima facie* case for it to seek indulgence against a validly enacted law which remains in operation and is applicable as of today. The grounds urged on behalf of the Petitioner with regard to the unconstitutionality of the provisions in question on the ground of *mala-fides* and discrimination are mere assertions as yet, therefore, relying upon the well settled principle of law in the case of Federation of Pakistan v. Aitzaz Ahsan and others (PLD 1989 SC 61), no case for grant of interim relief is made out at this juncture.

CM No. 2 of 2025

7. The dispensation sought for from production of certified copies of documents is allowed subject to all just and legal exceptions.

(Ch. Sultan Mahmood)
Judge

(Khalid Ishaq)
Judge

Furris!