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JUDGMENT SHEET
LAHORE HIGH COURT,
RAWALPINDI BENCH, RAWALPINDI
JUDICIAL DEPARTMENT

Civil Original No.08 of 1989

Netherlands Financierings Maatschappij Voor Ontwikkelingslanden N.V. (F.M.O.) **V/S** *Morgah Valley Limited and SECP*

JUDGMENT

Date of hearing	20.12.2022
Petitioner(s) by	Mr. Anwar Kamal, Sr.ASC with Muhammad Umar Khan Vardaq, ASC.
Respondent(s) by	M/s Malik Qamar Afzal, ASC with Malik Shahriyar Qamar Afzal, Raja Asad Iqbal Sati and Usman Jillani, Advocates and Barrister Zainab Nasir alongwith Nasir Jabbar Khan. Mr. Muzaffar Ahmad Mirza, Executive Director, Legal Affairs with Adeel Peter and Hassnain Raza, SPP for SECP. Malik Amjad Ali, Additional Advocate General. Mr. M. Kamal Hassan, Advocate/ENE Mediator with M. Bilal Riaz and Barrister Mian Sheraz Javaid. Ch. Ali Abbas, Advocate for IDBL Bank with officials of Bank namely Faizan Khan, Officer Grade-II, IDBL and Zargham Shah. Sadique Akbar Abbasi, ASC for NBP. Mr. Attiq-ur-Rehman Kiani, ASC, Official Liquidator (Applicant in C.Ms. No.7 and 8 of 2022). Syed Bulent Sohail and Zarmeeneh Rahim, Advocates. Malik Aneeq Ali Khatana, Barrister S.M. Hafeez Shah, Advocates. Rashid Mehmood, Civil Judge 1st Class/Research Officer Lahore High Court (Rawalpindi Bench).

Each will have to accept that those who live by the sword must risk dying by the sword as well. That is the inevitable risk of litigation…. What can the court do to prevent what, to those outside the litigation, may seem like an unseemly, or at least uncommercial, squabble? We can and we do encourage ***mediation****, the earlier the better. It does have an extraordinary knack of producing compromise,* ***even where the parties appear, at the start, to be intractably opposed****.* [1]

(Sir Alan H. Ward, Judge, Court of Appeals, England & Wales)

JAWAD HASSAN, J. Pursuant to short order dated 20.12.2022, this petition was disposed of in terms of settlement agreement (Mark-A) with the reasons to be recorded later which are now being recorded through this judgment.

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[1] *"Daniels v The Commissioner of Police for the Metropolis [2005] EWCA Civ 1312.*

2. After passing of aforesaid order, on 08.04.2023 the parties filed an application to confirm the payment made to the *"Petitioner"* and other creditors. On 23.02.2024 C.M.No.08 2024 was filed by Mr. Anwar Kamal, Sr. ASC and Mr. Muhammad Umer Khan Vardag, Advocate for placing on record relevant documents i.e. Compromise/Settlement dated 21.08.2023 executed between the IDBL and consortium banks with Nasir Jabbar Khan, shareholder/director of the *"Company"* according to which payment has also been made to all other creditors. Besides two receipts of first and second installment (Annex-B) alongwith loan clearance certificate as per clause 3 of abovestated compromise are also attached. The above said Compromise/Settlement is made part of this file as Mark-B. This application is allowed subject to all just and legal exceptions. Another C.M.No.07 of 2024 was filed by ENE Mediator namely Muhammad Kamal Hassan, Advocate for confirming the completion and conclusion of disputes between the parties according to which all amounts and dues have been paid by the Respondent to the Petitioner and there remains nothing outstanding in this regard. This application is also allowed.

I. <u>OVERTURE</u>

3. This detailed order is intended to decide this longstanding dispute of four (04) decades continuing amongst the parties in relation to agreement executed between Netherlands Financierings Maatschappij Voor Ontwikkelingslanden N.V. (F.M.O.) (the ***"Petitioner"***), the Dutch Development Bank and the Morgah Valley Limited (the ***"Company"***) way back forty-two (42) years on 26.03.1982 in relation whereto instant petition was brought in the year 1989 that was hanging fire due to non-payment of loan i.e. DFI 1,001,704.50 by the *"Company"* to the *"Petitioner"* which have now finally been paid/received by the concerned party through process of mediation by this Court. This process strengthens the confidence of foreign investors which in the case in hand is the *"Petitioner"*, the Dutch Development Bank structured as a bilateral private-sector international financial institution, who has received the amount from

the *"Company"* based on the principles of *"Doctrine of Expeditious Resolution of Corporate Disputes through Mediation"* developed by this Court in *"FAISAL ZAFAR and another Versus SIRAJ-UD-DIN and 4 others, GENOME Pharmaceuticals and SECP"* (**2024 CLD 1**). Furthermore, this Court while establishing the Commercial Courts in Punjab as referred in *"M.C.R. (Pvt) Ltd, franchisee of Pizza Hut Versus Multan Development Authority and others"* (**2021 CLD 639**) has held that *"it is the duty of the Courts in Pakistan to see the rights of the parties and to protect their interest in order to build confidence of investors in Pakistan"*. The mediation and ADR for the purpose of resolution of corporate and tax disputes has consistently been encouraged and insisted by the Supreme Court of Pakistan, in order to avoid unnecessary delay, in resolving such disputes as well as to safe precious time of Courts and expenses of parties. In said regard Supreme Court of Pakistan has held in "*FEDERATION OF PAKISTAN and others versus ATTOCK PETROLEUM LTD. ISLAMABAD"* (**2007 SCMR 1095**) that "*The centuries old traditional method of settlement of private dispute through negotiation is not only familiar in the modern world, but this voluntary scheme for settlement of tax dispute through mediation and negotiation is an effective method to be followed. ... ..."*

II. CONTEXT

4. Brief facts of the case are that the *"Petitioner"*, vide agreement dated 26.03.1982 and subject to P.M.O. General Condition to loan agreements, **lent** Dutch Florins 815,865.03 to the *"Company"* that was secured by hypothecation of all the machinery and equipment by creating floating charge over all the assets, properties and goodwill of the *"Company"* by means of agreement dated 20.02.1983 (the ***"Agreement"***). It was registered with the Registrar of the Joint Stock Companies on 22.02.1983 according to which the *"Company"* had to pay back loan in installments of DFl 56,250 every six months. However, the *"Company"* failed to make payments despite several reminders. Vide letter dated 01.10.1989, the *"Petitioner"* served a notice under Section 306 of the Companies

Ordinance, 1984 (the ***"Ordinance"***) calling upon the *"Company"* to pay back within 30 days the due amount i.e. DFl 1,001,704.50 being the principal and the interest due on the said date in accordance with the terms of the *"Agreement"*. The *"Company"* was duly intimated that in case the amount is not paid within the said 30 days, winding up proceedings shall be initiated. On failure to repay loan amount by the *"Company"*, winding up petition was filed and, after hearing the parties, winding up order was passed vide order dated 11.07.2003 (the ***"Winding Up Order"***), against which Civil Appeal No.1239/2003 was preferred, but the same was dismissed in default by the Supreme Court of Pakistan on 23.02.2006, hence, execution proceedings were conducted before this Court and Official Liquidator (OL) was also appointed, but thus far not a single penny has been paid to the *"Petitioner"* since the approval of the loan pursuant to the *"Agreement"*. On 18.10.2018, this Court noted that Raja Shahzad Zulqarnain, Official Liquidator (OL) was not interested in performing his functions, therefore, the order of his appointment was recalled and Mr. Attique-ur-Rehman Kiani, Advocate was appointed as OL for the said purpose. Until the mediation process in 2022, not a single penny was paid to the *"Petitioner"* by the *"Company"*, hence, this Court adopted the approach of mediation to resolve the issue between the parties keeping in view international image of Pakistan's financial institutions for future investment and financing which is crucial these days.

III. PETITIONER'S SUBMISSIONS

5. M/s Anwar Kamal, Sr. ASC and Muhammad Umar Khan Vardaq, Advocate submitted that in the *"Winding Up Order"* only four months' time was given to the *"Company"* for payment of Rs.3.2 million and now almost two decades have been lapsed, therefore, they vehemently objected to the revival of the *"Company"*. They submitted that the *"Company"* had filed an appeal before the Supreme Court of Pakistan, which was dismissed for non-prosecution as well. Mr. Anwar Kamal, Sr. ASC added that this petition was filed under the provisions of the *"Ordinance"* which has now been

repealed through enactment of The Companies Act, 2017 and agrees with approach of mediation for the payment of claimed amount and in this regard he sought instructions from his client for such mediation to resolve longstanding issue. He put much emphasis that mediation is a new concept in Pakistan for betterment of ADR which is more effective, time efficient and less expensive.

IV. RESPONDENT'S SUBMISSIONS.

6. Malik Qamar Afzal, ASC learned counsel for the *"Company"* submitted that they approached the Securities Exchange Commission of Pakistan (the ***"SECP"***) for revival of the *"Company"* and also requested for recalling of the *"Winding Up Order"* in the light of the judgments of this Court reported in "*THE ADDITIONAL REGISTRAR COMPANY versus AL-QAIM SUGAR MILLS Ltd"* **(2021 CLD 931)** and "*SAUDI PAK INDUSTRIAL & AGRICULTURAL INVESTMENT COMPANY Ltd versus CHENAB LIMITED"* **(2020 CLD 339)**, relevant part thereof reads as:

> *"31. Similarly, it is apparent from the above cited case laws that winding up is the last thing that the court would do and not the first thing that the court would do having regard to its impact and consequences, including (a) closing down of a unit which produces some goods or provides some services; (b) loss of employment of numerous persons and resulting grave hardship to the members of families of such employees; (c) loss of revenue to the State by way of collection that the State could hope to make on account of customs or excise duties, sales tax, Income Tax, etc. The effect of winding up must be considered -putting an end to the business or an industry or an entrepreneurship -and the court should not be too keen or too anxious to continue winding up of a company and must give weightage if there is any possibility of resurrecting the company."*

Learned counsel for the *"Company"* further adds that pursuant to the *"Winding Up Order"*, the *"Company"* has agreed to pay Rs.3.2 million to the *"Petitioner"*. The relevant part is reproduced as under:

> *"In terms of observations/directions made by the Hon'ble Chief Justice Ajmal Mian (as his Lordship then was) in the cited case of Messrs Glorix Textile Mills Ltd (1999 SCMR 1850), it is observed that in case the respondent agrees to*

> *pay the said amount of Rs.32,00,000/- to the Petitioner, it may make proper application before this Court but this will be permissible only for a period of four months commencing 1.8.2003."*

In response thereto, learned counsel for the *"Petitioner"* Mr. Muhammad Umar Khan Vardaq, Advocate submitted that the *"Petitioner"* provided finance to the *"Company"* in foreign exchange, therefore, the *"Petitioner"* does not accept the offer made by learned counsel for the *"Company"*.

V. SUBMISSIONS MADE BY THE "SECP"

7. Mr. Adeel Peter, Advocate for the *"SECP"* stated that they have already submitted report, which depicts that the *"Company"* vide letter dated 04.02.2022 has filed statutory forms pertaining to year 2017-2021 along with Form-39 & 26 for converting the *"Company"* into active status and report of special resolution in that regard, however, the same have not been processed due to the pendency of this petition.

8. Arguments heard. Record perused.

VI. PROCEEDINGS OF THE COURT

9. In resolving the dispute, on **15.02.2022**, Malik Qamar Afzal, ASC for the *"Company"* filed C.M.No.10/2022 alongwith Pay Order (dated 11.02.2022) of Rs.3.2 Million in the name of the *"Petitioner"* for settlement of the credit amount; a copy thereof was handed over to learned counsel for the *"Petitioner"*. It was noted that during pendency of this petition, the *"SECP"* was arrayed as party to the proceedings and on direction of this Court, the *"SECP"* filed various documents showing current status of the *"Company"*, including the fact whether any asset of the *"Company"* has been charged with the *"SECP"* or not. The case was called to resolve this matter amicably by paying the amount to the *"Petitioner"* with the exchange rate and also to conclude all other matters pending before various Courts because under the Companies Act, 2017 (the ***"Act"***) the Court has to safeguard the rights of the creditors as the *"Act"* provides alternate mechanism for amicable resolution of the corporate disputes. In order

to settle the corporate dispute, this Court has already passed various judgments avoiding the winding up for the betterment of the *"Company"* and the creditors by developing the jurisprudence of commercial morality in Pakistan. Therefore, to resolve this corporate dispute pending before this Court since 1989, both the parties were directed to settle the matter after consultation with their clients and seeking instructions from them, keeping in mind the fact that the winding up petition was filed on 08.12.1989 and in paragraphs 6 to 8 of the petition, the *"Petitioner"* has mentioned the date of the agreement as 26.03.1982 and amount to be paid to the *"Company"* and its reminder before the winding up, however, it is to be noted that the *"Winding Up Order"* passed by this Court under the *"Ordinance"* (since repealed) was to the extent of amount of Rs.3.2 Million, which was then appealed under Section 10 of the *"Ordinance"* before the Supreme Court of Pakistan in Civil Appeal No.1239/2003, but the same was dismissed in default vide order dated 23.02.2006.

10. Pertinent to mention here that pursuant to the aforementioned winding up, the *"Company"* filed a petition to recall the *"Winding Up Order"*, which was contested by the *"Petitioner"* by filing all the relevant documents, including the aforesaid order of the Supreme Court of Pakistan. The matter has not been resolved so far and despite appointment of the Official Liquidator, not a single penny has been paid to the *"Petitioner"*. In the judgment reported as "*M.C.R. (PVT) LTD, FRANCHISEE OF PIZZA HUT versus MULTAN DEVELOPMENT AUTHORITY and others"* **(2021 CLD 639)**, this Court has already discussed the issue of foreign investment and the role of foreign investors in Pakistan. Relevant paragraph No.29 of the said judgment is reproduced hereunder for ease of the matter:-

> *"29. Since the Pizza Hut is an international chain and entered into lease agreement with WASA, it is the duty of the Courts in Pakistan to see the rights of the parties and to protect their interest in order to build confidence of investors in Pakistan but at the same time the interest of government functionaries has also to be examined regarding financial interest of*

> *the Government. The learned Civil/Commercial Court is, therefore, directed to decide the case expeditiously but not later than 60 days from the receipt of copy of this judgment in accordance with law."*

11. Therefore, in order to proceed further in the matter for amicable settlement between the parties, learned counsel for the parties were directed to convene first negotiation meeting on 22.02.2022 at the mutually agreed convenient place by focusing on the following:-

> *(i) Amount paid by the "Petitioner" to the "Company" directly under the winding up petition and the documents appended with and mentioned in the petition (in Paragraphs 5 to 7);*
>
> *(ii) Time, date and exchange rate of the amount paid and current exchange rate of Dutch Guilder;*
>
> *(iii) Properties of the "Company" charged with the "SECP";*
>
> *(iv) Pending cases between each other before this Court and other Courts;*
>
> *(v) A draft of the settlement between the parties with the token of Rs.3.2 million, Pay Order of which has already been filed by the Respondent alongwith C.M.No.10/2022 to show his willingness to pay the debt for the anti-winding up order, as already delivered by this Court in "SAUDI PAK INDUSTRIAL & AGRICULTURAL INVESTMENT COMPANY LTD versus CHENAB LIMITED" (**2020 CLD 339**) and "THE ADDITIONAL REGISTRAR COMPANY versus AL-QAIM SUGAR MILLS LTD." (**2021 CLD 339**).*

12. Pursuant to the order dated 15.02.2022, Mr. Muhammad Kamal Hassan Advocate/ENE Mediator submitted the minutes of meetings of the parties and counsel, convened on 22.02.2022 at *"SECP"* Head Office, Islamabad. Mr. Usman Jillani, Advocate for counsel for the *"Company"* also submitted an **OFFER FOR SETTLEMENT** of Global Disputes between the parties, which was made part of record. To avoid further delay the case was fixed for 01.03.2022. In the meanwhile,

learned counsel for parties had been allowed to amend the offer made by the *"Company"* to narrow down the settlement.

13. On **06.10.2022**, pursuant to Early Neutral-Party Evaluation (the ***"ENE"***) made as per the preamble of the *"Act"*, which states that the *"Act"* has been enacted for the expeditious resolution of corporate disputes, read with the provisions of Sections 6 and 277-278 of the *"Act"*, the parties had a meeting as reflected from order dated 10.02.2022 and they had proposed the first negotiation on 22.02.2022. In order to resolve the issue once for all, under the "*ENE"*, keeping in view the fact that matter is pending since 1989 and it only relates to the signing of agreement(s) in the year 1982, about 40 years ago, as earlier noted by this Court in order dated 15.02.2022, more time was granted to the parties for its amicable resolution. Then, on 23.02.2022, it was informed to the Court that the matter was still not resolved, hence, by invoking powers of the Company Judge under Section 277 and 278 of the *"Act"* on 23.02.2022, Mr. Kamal Hassan, Advocate was appointed as ENE Mediator who submitted his report regarding laws pertaining to money trail for the amount of Rs.6,240,000/- deposited in this Court by the *"Company"* as a settlement amount.

14. On **04.03.2022**, Malik Qamar Afzal, ASC for the *"Company"* submitted revised settlement agreement dated 04.03.2022, which was made part of record as Mark-C. It is important to mention here that the *"Company"* had already submitted first offer for settlement on 23.02.2022, which is on record as Mark-A and Mr. Muhammad Kamal Hassan, Advocate (on Court's call) has submitted the minutes of meetings of the Parties and counsel, convened on 22.02.2022 at *"SECP"* Head Office, Islamabad, which is on record as Mark-B.

15. Malik Qamar Afzal, ASC stated that for the purpose of transparency, to avoid any apprehension of money laundering and to satisfy the requirement of Financial Action Task Force (FATF), *"SECP"* as well as National Bank of Pakistan (NBP), the *"Company"* has removed all the anxiety of the *"Petitioner"* by

annexing money trail record/documents with the revised settlement agreement (Mark-C).

16. Malik Qamar Afzal, ASC further submitted that pursuant to the settlement agreement (Mark-C) the *"Company"* wanted to deposit; (i) Pay Order/ Banker's Cheque bearing No.25253972, dated 11.02.2022 amounting to Rs.3,200,000/- (Rupees Three Million Two Hundred Thousand only) and (ii) Cheque bearing No.00000055, dated 04.03.2022 amounting to Rs.3,040,000/- (Rupees Three Million & Forty Thousand only) both drawn on Habib Bank Limited, Morgah Rawalpindi in favour of NEDERLANDSE FINANCIERINGS MAATSCHAPPIJ VOOR ONTWIKKE LINGSLANDS, N.V. He was directed to deposit both the instruments with the Deputy Registrar (Judicial) of this Court, for safe custody on which both the parties agreed.

VII. MOOT POINT

17. Above reproduced background history, onward proceedings and attending circumstances in case in hand bring forth following moot point for discussions and determination ahead:

> ***Whether the Court may initiate mediation amongst parties to lis for resolution of a corporate dispute?***

VIII. WHAT IS MEDIATION?

18. Under the jurisprudence of Pakistani judiciary, mediation has been used to settle contract, interpersonal, human resource conflicts. Mediation involves the intervention of a third person, or mediator, into a dispute to assist the parties in negotiating jointly acceptable resolution of issues in conflict. The mediator meets with the parties at a neutral location where the parties can discuss the dispute and explore a variety of solutions. Each party is encouraged to be open and candid about own point of view. The mediator, as a neutral third party, can view the dispute objectively and assist the parties in considering alternatives and options that they might not have considered. The mediator is neutral and does not stand for personal

benefit from the terms of the settlement, and is impartial in that he or she does not have a preconceived bias about how the conflict should be resolved. In short, mediation is a process where the parties meet with a mutually selected impartial and neutral person who assists them in the negotiation of their differences. The process brings in hope that getting the parties to discuss settlement through a trustworthy and skilled mediator will nevertheless encourage settlement freeing up valuable court time and resources. In this case, the mediation of parties was neutrally held at the *"SECP"* office.

IX. <u>HOW MEDIATION WORKS?</u>

19. Unlike court proceedings, mediation is a more informal and flexible approach, fostering open communication and creative problem solving. The mediator's role is not to make decisions but to guide the parties in finding common ground and exploring potential solutions. One of the key advantages of mediation is its cost-effectiveness compared to court proceedings. It also tends to be a faster method of resolution, putting more control in the hands of the parties involved. The informality of mediation contributes to a quicker resolution compared to the often time-consuming nature of court proceedings. Additionally, the process preserves relationships, as parties actively engage in finding mutually agreeable solutions. The flexibility of mediation allows for a more personalized and tailored resolution to the specific needs and concerns of the parties involved. The mediation, in particular, can be a potent tool, offering parties the chance to make substantial cost savings if a settlement can be reached. Even in cases where a resolution is not reached, mediation often helps parties to identify aspects of the dispute that may not warrant litigation, fostering potential future settlements. Mediation's flexibility also allows for the exploration of creative solutions to disputes.

X. <u>NATIONAL & GLOBAL IMPACT OF MEDIATION</u>:

20. Due to ever growing economic activism, stimulation and expansion of international investment, trade entities are eagerly and

consistently falling in interactions, deals and transactions, not only with local citizens but with foreign business communities as well. In course thereof, they aspire certain securities safeguarding and protecting their investments, interests and rights as well as guaranteeing resolution of trade/commercial/corporate disputes at earliest and at lowest costs of time and money, that too, under umbrella of law. Using Mediation as a technique to resolve trade/commercial/corporate disputes has now been transformed in a global movement and performance of Singapore International Arbitration Center (SIAC) [2] in Asia Pacific Hong Kong is model example thereof. Emergence of specialized newer trade zones and spheres even involving e-commerce & digital currency etc., international commercial & trade relations are inevitable and there rests every likelihood of eruption of disputes amongst business/trading parties. Such disputes require efficacious, expert, enforceable, affordable, understandable and easily accessible dispute resolution/mediation mechanism suitable, mutually acceptable & manageable for local and foreign parties. To cope with and to resolve commercial and investment disputes as well as to out card complications and challenges involved therein, a well-designed and object destined charter of domestic legal structure/framework is but necessary to win trust of foreign investors guaranteeing them security & protection of rights arising out of business/commercial/trade deals.

XI. EXISTING LAWS OF THE COUNTRY LEADING TO EXPRESS OR IMPLIED INTENT FOR MEDIATION:

21. In Pakistan, certain enactments are already in field couched with desire for resolution of disputes inter-se parties through mediums of arbitration, alternate dispute resolution and mediation amongst them are the Code of Civil Procedure, 1908; the Arbitration Act, 1940; the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011; the

[2]. https://siac.org.sg/,

Arbitration International Investment Disputes Act, 2011; the Alternate Dispute Resolution Act, 2017 and the Punjab Commercial Court's Ordinance, 2021. To be more specific, Section 89-A and Order IX-A of the Code of Civil Procedure, 1908 warrant gearing in process of Alternate Dispute Resolution/mediation, whereas provisions of the Order IX-B ahead read as follows:

> ***"RULE 1:***
> *(1) Except where the Court is satisfied that there is no possibility of **mediation** or an intricate question of law or facts is involved, the Court shall refer the case for **mediation**.*
> *(2) While referring the matter for mediation, the Court may indicate the material issues for determination through **mediation**.*
> ***RULE 2:***
> *Where a case is referred for mediation, the Court shall stay the proceedings for a period not exceeding thirty days and direct the parties to appear before the **Mediation** Centre, set up by Lahore High Court, on such date and time as the Court may specify.*
> ***RULE 3:***
> *(1) Where the **mediation** proceedings are successful and the parties have arrived at an agreement, the Mediator shall cause the same to be recorded in writing, signed by the parties or their recognized agents or their pleaders and attested by two independent witnesses.*
> *(2) The agreement shall be certified by the Mediator and transmitted forthwith, through the Administrator of the Mediation Centre, to the Court.*
> *(3) The Court shall, on receipt of the agreement, pass a decree in terms thereof unless the Court, for reasons to be recorded in writing, finds that the agreement between the parties is not enforceable at law.*
> *(4) Where the settlement relates only to a part of the dispute, the Court shall pass decree or an order in terms of such settlement and proceed to adjudicate the remaining issues.*

> ***RULE 4:***
> *Where the meditation fails and no settlement is made between the parties, the Mediator shall submit a report to the Court and the Court shall proceed with the case from the stage it was referred to Mediation."*

22. Moreover, Section 134-A (1) of the Income Tax Ordinance, 2001states that "*An aggrieved person in connection with any dispute pertaining to: (a) the liability of tax of one hundred million rupees or above against the aggrieved person or admissibility of refund, as the case may be; (b) the extent of waiver of default surcharge and penalty; or (c) any other specific relief required to resolve the dispute, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an appellate authority, except where criminal proceedings have been initiated*." Chapter XIX, Rule 231-C of the Income tax Rules, 2002 are also available in connection thereto.

23. The Company laws in our country were not short of ground as well. The preamble of the *"Ordinance"* set the prime object with words that *"whereas it is expedient to consolidate and amend the law relating to the companies and certain other associations for the purpose of healthy growth of the corporate enterprises, protection of investors and creditors, promotion of investment and development of economy and matters arising out of or connected therewith*". In Part IX of the *"Ordinance"*, section 283 dealt with power for companies to refer matter to arbitration. Likewise, Preamble of the *"Act"* reads that *"whereas the State is required to ensure inexpensive and expeditious justice and whereas an alternative dispute resolution system can facilitate settlement of disputes expeditiously without resort to formal litigation"*.

24. Over, above and ahead of former law in shape of the *"Ordinance"*, the *"Act"* now prevalent in field comprehensively deals with subjects of reference to ADR, panel of Neutrals,

appointment of Neutrals, referral to ADR Centre, reference to ADR before legal proceedings, ADR proceedings, settlement and award, execution of an order or a decree etc. Federal Government, in exercise of the powers conferred by section 25 read with section 4 of the Alternative Dispute Resolution Act, 2017 has also framed ADR Mediation Accreditation (Eligibility) Rules, 2023 featuring accreditation and Notification, accreditation committee, accreditation eligibility rules and notification, ADR Register and suspension or revocation of accreditation.

25. Undoubtedly, legislature sensed the need of the day and the *"Act"* is more specific, exhaustive and object oriented with regard to mediation, preamble whereof states that "*WHEREAS it is expedient to reform company law with the objective of facilitating corporatization and promoting development of corporate sector, encouraging use of technology and electronic means in conduct of business and regulation thereof, regulating corporate entities for protecting interests of shareholders, creditors, other stakeholders and general public, inculcating principles of good governance and safeguarding minority interests in corporate entities and providing an alternate mechanism for expeditious resolution of corporate disputes and matters arising out of or connected therewith".* The principles for the purpose of mediation making basis upon Sections 276 to 278 of the *"Act"* have already exhaustively discussed by this Court in "*FAISAL ZAFAR and another versus SIRAJ-UD-DIN and 4 others, GENOME Pharmaceuticals and SECP"* (**2024 CLD 1**) suggesting Early Neutral-Party Evaluation through mediation in terms of Preamble and Sections 6, 276 and 277 of the Companies Act, 2017 holding that "*The flexibility of mediation allows for a more personalized and tailored resolution to the specific needs and concerns of the parties involved."*

XII. JURISPRUDENCE IN OUR COUNTRY:

26. Since in the judgment of "Faisal Zafar" case supra, the Court actuated mediation relying upon the judgment of Supreme Court of Pakistan reported as "*FEDERATION OF PAKISTAN and others*

versus ATTOCK PETROLEUM LTD. ISLAMABAD" (**2007 SCMR 1095**) whereby the Court while opening doors for future mediations for the purpose of resolving corporate disputes, held that "*There are various forms of ADR such as mediation, arbitration, conciliation and compromise with or without intervention of court".* Approving resolution of corporate disputes through mediation has been a consistent approach and practice of the Higher Courts in the Country. It is held in case "*MESSRS U.I.G. (PVT.) LIMITED through Director and 3 others versus MUHAMMAD IMRAN QURESHI"* (**2011 CLC 758**) that *"the Court to bring an end to the controversy and for expeditious disposal of case by consent of the parties may adopt any alternate method of dispute resolution including mediation, conciliation or any other means".* Furthermore, it is held in case "*Messrs ALSTOM POWER GENERATION through Ashfaq Ahmad versus PAKISTAN WATER AND POWER DEVELOPMENT AUTHORITY through Chairman and another"* **(PLD 2007 Lahore 581**) that *"The Courts are also expected to encourage the parties to adopt such modes in view of provisions of S.89-A and Order X, R.1(1-A) of the Code of Civil Procedure, 1908. It is now a universally accepted method being followed as a less expensive less time consuming, less cumbersome and ultimately a fruitful and beneficial mode, commonly known as ADR (Alternative Dispute Resolution)."* Moreover, in case titled "*FAISAL ZAFAR and another versus SIRAJ-UD-DIN and 4 others, GENOME Pharmaceuticals and SECP"* (**2024 CLD 1**) this Court suggested an "ENE" through mediation in terms of Preamble and Sections 6, 276 and 277 of the Companies Act, 2017 and held that *"The informality of mediation contributes to a quicker resolution compared to the often time-consuming nature of court proceedings....The flexibility of mediation allows for a more personalized and tailored resolution to the specific needs and concerns of the parties involved."*

XIII. FOREIGN JURISPRUDENCE:

27. This Court in "Faisal Zafar" case supra, has already discussed in detail certain verdicts from foreign jurisdictions, which are the verdict of United States Court of Appeal, First Circuit, in re *Atlantic Pipe Corp." **(304 F.3d 135 (1st Cir. 2002),*** judgment of the United States District Court, *N.D. Illinois, Eastern Division observed In re African-American Slave Descendants' Litigation MLD No.1491, Lead Case No.02 C 7764 (***307 F. Supp. 2d 977 (N.D. Ill. 2004**), the judgment of the Hong Kong Special Administrative Region Court of First Instance, in re ***Personal Injuries Action No.707 of 2008,*** judgment of the Supreme Court of India in *M/s. Afcons Infra Ltd. & Anr vs M/s. Cherian Varkey Constn* (**2010 (8) SCC 24**), [3], the judgment of the Gujarat High Court, Ahmedabad, India, in case "*Pitamber B Ruchandani v. Arti Bharatbhai Ruchandani & 5* (**O.J.APPEAL NO. 7 of 2014**) [4] all identifying, suggesting, approving and insisting to adopt mediums of mediation/ADR/arbitration etc. for the purpose of resolving disputes amongst parties.

XIV. CONSISTENT JURISPRUDENCE ENUNCIATED IN UK JURISDICTION

28. Barrister Mian Sheraz Javaid and Syed Bulent Sohail, Advocates have opened their arguments whilst relying upon recent development enlightening scope of mediation brought in by the Court of Appeal in England and Wales in "*James Churchill v Merthyr Tydfil County Borough Council*" **[2023] EWCA Civ 1416** [5] on issue of as to whether courts can order non-court dispute resolution, which judgment has expanded the court's power to compel parties to take part in non-court dispute resolution processes. Background of said case is that the defendant's application was rejected by Deputy District Judge Kempton Rees, who cited the

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3. *https://indiankanoon.org/doc/1875345/*.
4. *https://indiankanoon.org/doc/15255037/*,
5. *judiciary.uk/wp-content/uploads/2023/11/Churchill.APPROVED-JUDGMENTS-2.pdf.*

precedent set by Lord Justice Dyson's statement in *Halsey v Milton Keynes General NHS Trust* **[2004] 1 WLR 3002**. This was that "*to oblige truly unwilling parties to refer disputes to mediation would be to impose an unacceptable obstruction on their right of access to court". Later, on question as to what if both parties are unwilling to try ADR? The Court of Appeal noted that "even with initially unwilling parties, mediation can often be successful*." The Master of the Rolls, Sir Geoffrey Vos, who wrote the judgment, said that matter to engage parties in a non-court-based dispute resolution process should be left to the discretion of the Court. The Court of Appeal also emphasized that parties should be ordered to take part in ADR and mediation only if that does not impair their rights to proceed to trial and is proportionate to achieving a settlement fairly and quickly and at a reasonable cost.

29. This Court will examine the approach of Courts of Appeals of England and Wales, even prior to judgment in aforementioned *James Churchill* case with regard to applying mediation process while deciding corporate disputes in particular, which finds to be consistent. To strengthen this conclusion, it is relevant to mention that in case of *Kelly v Miller & Ors* **[2014] EWCA Civ 1151** the Court of Appeal held that *"None of you have been well served by the court process and that is regrettable. The idea of starting all that again is, as I say, one that you will not welcome. So signing up just to sit down in a room with a mediator and see where you get to cannot be a bad idea and I would urge each of you -- because you all, in fact, I suspect, feel about this in the same way from your different perspectives -- to take up the suggestion of mediation.... It is still not too late for the parties to consider the benefits of* ***mediation****. As Tomlinson LJ said, a skilled mediator could achieve a great deal in the course of a proper mediation between the parties."* Moreover, in *Wright v Michael Wright Supplies Ltd* **[2013] EWCA Civ 234** the Court of Appeal observed that *"...**mediation** is a proper alternative which should be tried and exhausted before finally resorting to a trial of the issues ... Judge Thornton attempted*

valiantly and persistently, time after time, to persuade these parties to put themselves in the hands of a skilled mediator, but they refused. What, if anything, can be done about that? You may be able to drag the horse (a mule offers a better metaphor) to water, but you cannot force the wretched animal to drink if it stubbornly resists. I suppose you can make it run around the litigation course so vigorously that in a muck sweat it will find the ***mediation*** *trough more friendly and desirable."* Further, the Court of Appeal in <u>*Wright v Michael Wright Supplies Ltd*</u> **[2013] EWCA Civ 234** highlighted that *"**Mediation** is the obvious way in which to explore these matters and allow the parties to move on before they cripple themselves with more debt."* In addition thereto, the Court of Appeal concluded in <u>*Ghaith v Indesit Company UK Ltd*</u> **[2012] EWCA Civ 642** that *"No-one should underestimate the new dynamic that an experienced mediator brings to the round table. He has a canny knack of transforming the intractable into the possible. That is the art of good* ***mediation*** *and that is why* ***mediation*** *should not be spurned when it is offered."* It shall not be out of context that the Court of Appeal in <u>*DK (Iraq) v Secretary of State for the Home Department*</u> **[2008] EWCA Civ 1169** held that *"On the question of* ***mediation****, I should make it clear that there are two ways in which blood feuds can be resolved, either by a further killing or by a* ***mediation*** *between the two families, but in this case there are difficulties."* Likewise, in <u>*Ezsias v Welsh Ministers*</u> **[2008] EWCA Civ 874** the Court of Appeal described that *"It seems to me daft for these parties to embark upon this appeal without having thought of undertaking some process of* ***mediation*** *... therefore I add my exhortation that* ***mediation*** *should be undertaken because it could produce the answer of practical importance to these parties. It will save the Court of Appeal a great deal of work."* It has also been stated by the Court of Appeal in <u>*R (on the application of) v Birmingham East & North Primary Care Trust*</u> **[2008] EWCA Civ 465** that *"It is surprising how frequently even the most intractable case produces a satisfactory outcome in* ***mediation*** *assisted by a*

trained mediator" In connection with subject, the Court of Appeal is of the view in *Burchell v Bullard & Ors* **[2005] EWCA Civ 358** that *"I suspect that there are many disputes of this kind where one party offers and desires* ***mediation*** *and is simply met by a blank refusal. The court is entitled to take an unreasonable refusal into account, even when it occurs before the start of formal proceedings."* Similarly, in *Day v Day* **[2002] EWCA Civ 1842,** the Court of Appeal is of the opinion that *"Understand that the process of* ***mediation*** *involves give and take on both sides. It is no good going into mediation saying, 'Be reasonable. Do it my way.'* Last but not least, in *Circuits Ltd. v Coates Brothers Plc* **[2002] EWCA Civ 333,** the Court of Appeal settled that "*The whole point of having* ***mediation*** *is that the most difficult of problems can sometimes be resolved.".*

XV. DETERMINATION

30. By examining the provisions of the *"Act"* and regulations of the *"SECP"*, this Court made attempts to settle the dispute between the parties through invoking mediation process under the provisions of the *"Act"*, as is evident from orders dated 12.01.2022, 03.02.2022, 08.02.2022, 10.02.2022, 23.02.2022 and 01.03.2022, and also to narrow down the issue of the debt amount including legal process to be adopted, time frame and place for payment of claimed debt money. After initial failure in resolving the dispute in time to time held meeting between the parties, the mediator facilitated them to reach up to mutually acceptable settlement covering all aspects of the disputes, as elaborated in preceding orders, thereafter the parties agreed to settle the issue with regard to time, place and mode of payment of stipulated amount while complying the provisions of relevant laws. This effort was then facilitated by this Court under the provisions of the *"Act"*, judgment of the Supreme Court of Pakistan by giving them a reality check to both the parties to avoid further wastage of time because due to afflux of time, the amount claimed must have increased due to

shuffling in value of foreign exchange but on the other hand, the value of properties, assets mortgaged articles of the *"Company"* have also been increased tremendously. This reality check was brought by the mediator before the Court to resolve the issue through intervention by this Court which consequently resulted into the Settlement Agreement recorded as Mark-A whereby the parties agreed to the mode of payment of settled amount and time frame for the purpose. It is interesting to note that under clause(b) of Settlement Agreement, the parties have acknowledged their meetings through mediation supervised by the *"SECP"* for exploring possibility of settlement between them pursuant to order dated 15.02.2022. The Court also noted that the parties amicably agreed to transfer settled amount in shape of EURO currency from the bank account of the *"Company"* to the *"Petitioner"* within 30 days. Under clause-5 of Mark-A, the parties agreed to withdraw the cases mentioned therein whereas they also undertook that there was no pending or decided litigation between them in Pakistan or anywhere else in the world except for the cases mentioned under clause-5 of Mark-A. The parties further agreed not to file any case in future against each other with regard to issue in hand. After execution of Mark-A, the parties have informed the Court that settled amount has been received by the *"Petitioner"*.

31. This Court examined that mere non-payment of the claimed debt was the real issue between the parties eventuating in the *"Winding Up Order"* and onward proceedings in connection thereto suffered considerable delay. This Court has already passed a judgment reported in *"LT. GENERAL (RETD.) MAHMUD AHMAD AKHTAR and another versus M/s ALLIED DEVELOPERS (PRIVATE) LIMITED and others* **(2022 CLD 718)** on subject of early disposal of company disputes banking upon Section 6(11) of the *"Act"* requiring disposal of company matters within 120 days. Moreover, in said judgment this Court also emphasized upon Court case management in accordance with Section 6(7) of the *"Act"* speaking about allocation of time for hearing the case. Significant to

mention here that instant lis was introduced on record in year 1989 under the provisions of the *"Ordinance"*. Though Section 9 of the *"Ordinance"* states that all matters coming before the Court under this Ordinance shall be disposed of, and the judgment pronounced, as expeditiously as possible but not later than ninety days from the date of presentation of the petition or application to the Court, however, it is further important to mention here that no specific and clear provision enabling the Court to initiate mediation process was available in the *"Ordinance"* and so was the case in the Companies (Court) Rules, 1997, which state of affairs reasoned quite a long-standing delay in proceedings of instant petition. However, notwithstanding fact that no provision for time limited disposal of company matters was available in the *"Ordinance"*, this Court has already observed in *"SHAHEEN MERCHANT versus FEDERATION OF PAKISTAN etc"* **(2021 PTD 2126 Lahore)** that the Courts are also expected to decide the disputes brought before them by the parties within a reasonable time and in an expeditious manner. For avoiding any further delay in adjudication of dispute in hand, this Court has also fetched guidelines from principles from The Business and Property Courts of England & Wales, The Commercial Court Guide (incorporating The Admiralty Court Guide) Edited by the Judges of the Commercial Court of England & Wales Eleventh Edition 2022 (Revised July 2023) (the ***"Guide"***) [6] included in heads of Negotiated Dispute Resolution, Early neutral evaluation and time limits as well as the best principles formulated in The Standing International Forum of Commercial Courts (the ***"Best Practice in Case Management"***)[7] documented under heads of the rule of law and commerce, case management as means to an end, judicial grip at all stages, approach required to be firm but not rigid, early involvement of Commercial Judges in case management is advantageous. In absence of specific provisions in the law of country, the approach to follow guidelines and principles formulated

[6] *https://www.judiciary.uk/courts-and-tribunals/business-and-property-courts/commercial-court/litigating-in-the-commercial-court/commercial-court-guide/*
[7] *https://sifocc.org/*

in international covenants has already been recognized by Supreme Court of Pakistan in various cases. For instance, Saleem Akhtar, J (as he then was) authored the judgment in case titled *"Ms. SHEHLA ZIA and others versus WAPDA"* **(PLD 1994 Supreme Court 693)** whilst observing that *"the declaration of United Nations Conference on the Human Environment was adopted at the Stockholm on 16.06.1972 followed by certain other covenants/declarations as well as taking in consideration that such internationally agreed/recognized covenants/declarations have a persuasive value and command respect"*. Furthermore, Syed Mansoor Ali Shah, J in case titled *"D. G. KHAN CEMENT COMPANY LTD. versus GOVERNMENT OF PUNJAB through Chief Secretary, Lahore and others"* **(2021 SCMR 834)** weighed *the rule of dubio pro natura i.e. "in cases of doubt, all matters before courts, administrative agencies, and other decision-makers shall be resolved in a way most likely to favour the protection and conservation of the environment, with preference to be given to alternatives that are least harmful to the environment. Actions shall not be undertaken when their potential adverse impacts on the environment are disproportionate or excessive in relation to the benefits derived therefrom"* introduced in IUCN World Declaration on the Environmental Rule of Law (2016). Thus, there is no denying to the fact that though international covenants/declarations are not binding upon higher courts of this country, however, they carry quite a considerable persuasive value in absence of specific law in said regard.

32. As has been reproduced above, the Preamble of the *"Act"* elucidates that the *"Act"* has been enacted for the expeditious resolution of corporate disputes. Significance of the Preamble of a statue for the purpose of interpretation of law has already been emphasized and highlighted by this Court in cases "*Messrs BAHRIA TOWN (PVT.) LTD. THROUGH MANAGER (OPERATIONS) versus DISTRICT CONSUMER COURT, RAWALPINDI and 2 others"* (**PLD 2022 Lahore 488**), **"***CH.*

FAYYAZ HUSSAIN versus PROVINCE OF PUNJAB and others" (**PLD 2022 Lahore 1**), "*THE ADDITIONAL REGISTRAR COMPANY versus AL-QAIM TEXTILE MILLS LIMITED"* (**2021 CLD 931**) and "*Messrs JET GREEN (PVT.) LIMITED versus FEDERATION OF PAKISTAN and others"* (**PLD 2021 Lahore 770)**, highlighting almost same concept that "*the preamble to a statute is though not an operational part of the enactment yet it is a gateway, which opens before us the purpose and intent of the legislature, which necessitated the legislation on the subject and also shed clear light on the goals which the legislator aimed to secure through the introduction of such law. The preamble of a statute, is therefore, holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law*." Moreover, it has been observed in case "*SAIF UR REHMAN KHAN versus SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN (SECP) through Chairman and 2 others"* (**2022 CLD 1460**) that "*The object of promulgating the Act of 2017 has been described in its preamble as to reform and re-enact the law relating to companies*." Relying upon preamble of the Act, in case "*LT. GEN. (RETD.) MAHMUD AHMAD AKHTAR and another Vs. Messrs Allied Developers (Pvt.) Ltd. through Chief Executive and 3 others* (**2022 CLD 718**), this Court has already elaborated that "*The Preamble of the Act protects the interests of shareholders, creditors, other stakeholders and general public and provides an alternate mechanism for expeditious resolution of corporate disputes*." It would further be quite relevant to mention here that in case "*TARIQ IQBAL MALIK versus MESSRS MULTIPLIERZ GROUP PVT. LTD. and 4 others"* (**2022 CLD 468**), this court has already observed and held that *"The legislative intent of the Act is clear and obvious from its Preamble that it has been enacted to reform company law with the objective of facilitating corporatization and promoting development of corporate sector, encouraging use of technology and electronic means for protecting interests of shareholders, creditors, other*

stakeholders and general public, inculcating principles of good governance and safeguarding minority interest in corporate entities and providing an alternate mechanism for expeditious resolution of corporate disputes and matters arising out of or connected therewith".

33. It is to be noted that Section 276(2) of the *"Act"* requires the *"SECP"* to maintain a panel to be called "Mediation and Conciliation Panel" consisting of individuals having such qualifications as may be specified for mediation between the parties during the pendency of any proceedings before the *"SECP"* or the Appellate Bench. Section 276(1) of the *"Act"* authorizes the parties to the proceedings before the *"SECP"* or the Appellate Bench to apply, with mutual consent, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel. In addition, under Section 277 of the *"Act"*, a company, its management or its members or creditors may by written consent, directly refer a dispute, claim or controversy arising between them or between the members or directors inter-se, for resolution, to any individual enlisted on the mediation and conciliation panel maintained by the *"SECP"* before taking recourse to formal dispute resolution.

34. Moreover, in the case "*ADDITIONAL REGISTRAR COMPANIES versus AL-QAIM TEXTILE MILLS LTD."* **(2021 CLD 931)**, this Court has already declared the *"SECP"* as Regulator of companies. Provisions enacted through Sections 280 and 282 of the *"Act"* empower the *"SECP"* to enforce/sanction of a compromise or an arrangement in respect of a Company.

35. In addition thereto, the Companies (Mediation and Conciliation) Regulations, 2018 are available there to cope with situation as well, the Regulation No.3 whereof deals with establishment of Panel of mediators or conciliators, Regulation No.4 deals with qualifications of persons for empanelment, Regulation No.5 sets procedure and Regulation No.6 prescribes grounds for removal of persons from aforementioned panel,

Regulation No.7 states procedure for application for referring the matter to the Panel, Regulation No.8 suggests expenses of the mediation and conciliation, Regulation No.9 proposes terms and Conditions to be followed by Mediator and Conciliator, Regulation No.10 lays procedure for disposal of matters, Regulation No.11 deals with Settlement agreement and regulation No.12 proposes penalty for contravention of these regulations. It is observed that although, the Regulation No.3, which deals with establishment of Panel of mediators or conciliators, was made to promote mediation in the country pursuant to enactment of the *"Act"*, its preamble and Sections 277 and 278 of the *"Act"* but it has not been implemented so far. When confronted to Muzaffar Ahmad Mirza, he states that the *"SECP"* has already taken necessary action in this regard. In this view of the matter, the *"SECP"* is directed to operationalize these regulations keeping in view the observations of this Court in this case as well as in *"FAISAL ZAFAR and another Versus SIRAJ-UD-DIN and 4 others, GENOME Pharmaceuticals and SECP"* **(2024 CLD 1).** Syed Bulent Sohail, Advocate representing IBA Karachi submitted that, pursuant to the laws of the country and judgments of this Court, Pakistan Mediation Centre has been established to pursue the cause in Lahore, Islamabad and Rawalpindi in collaboration with Singapore International Mediation Centre (SIMC).

36. So, keeping in light broader, wider and long-lasting prospects as well as fetching guideline from preamble alongwith Sections 6, 276 and 277 of the *"Act"*, mediation was set forth amongst parties supervised by the quarters of regulatory authority i.e. the *"SECP"* as well with mutual coordination and cooperation of learned counsel for the parties, which mediation has worked and met with desired fruits. The parties have settled that dispute through the role of this Court because of linking section 6 read with Sections 276 and 277 of the *"Act"*. It is the duty of the company judge to protect the interest of the Company and minimize adverse effect to it. Based on the strong principles to safeguard the interest of the

Company and to resolve corporate dispute developed by Supreme Court of Pakistan in various judgments, this Court is of the view that Section 276 and 277 of the *"Act"* can be invoked in order to protect the interest of the Company and the Court can initiate process of the *"ENE"* and then mediation. Parties are encouraged throughout the litigation process to attempt to settle disputes, for good reason, and this decision may encourage more litigants to explore settlement possibilities before being ordered to do so by the court. Mediation' outcomes not only save time and money of parties, but it also reduces load of work in the courts as well as it is a most updated way on resolutions based on the "divine culture of Peace".

37. From the outset, it is straightaway noticed that issue in hand pertained only claim of debt amount, which issue stands settled in the way that receiving of said amount is admitted by the *"Petitioner"* as manifests in order dated 17.05.2023. When confronted, learned counsel for the *"Petitioner"* conceded the situation. The disputed debt claim stands thoroughly satisfied and there rests behind no justification for winding up the *"Company"* in such scenario.

XVI. CONCLUSION

38. In view of afore discussed clear provisions of the *"Act"*, the SECP Regulations, statements/undertaking of parties, pursuant to the preceding orders time to time passed by this Court, settlement of parties and verdicts of the Supreme Court of Pakistan, which is binding on this Court under Article 189 of the Constitution of Islamic Republic of Pakistan, 1973, this petition is **disposed of** in terms of settlement agreement (Mark-A). The parties are directed to take all necessary measures/steps for its enforcement. The *"SECP"* is also directed to collaborate with the State Bank of Pakistan regarding transfer/payment of funds in favour of the *"Petitioner"* expeditiously. These are the reasons for disposing of instant petition referred in short order dated 20.12.2022.

39. Before parting with this judgment, the Court appreciates conduct of parties for amicably suggesting, entering into and abiding by the mediation process for the resolution of dispute in hand, which related to only to payment of a specific amount. The Court also appreciates the valuable legal assistance rendered by the learned counsel for parties and Research Officer.

(JAWAD HASSAN)
JUDGE

<u>APPROVED FOR REPORTING</u>

JUDGE

*Usman**