

SBP Penalty Challenged: Court Grants Injunction in Import Case

RIAA Barker Gillette obtains interim injunction against State Bank of Pakistan penalty, emphasizing due process in foreign exchange regulations during Pakistan's economic crisis, as an exception to the ouster clause in FERA 1947.

We recently obtained an interim injunction against a regulatory penalty imposed by the [State Bank of Pakistan \(SBP\)](#) on [PFB Pvt Ltd](#), a leading manufacturer of medium-density fiberboard operating under the brand name [Patex](#). The order underscores the application of due process requirements to cases of violations of strict liability regulations under Pakistan's foreign exchange laws.

The case arose when Patex, seeking to construct a manufacturing facility, secured syndicated financing to import plant and machinery from China. However, in response to Pakistan's recent balance of payments crisis, the SBP imposed temporary prohibitions on banks opening letters of credit for such imports. These undocumented restrictions led to a lapse in the statutory import period under the [Foreign Exchange Regulation Act, 1947](#) and Chapter 13 of the [Foreign Exchange Manual](#). Consequently, the SBP imposed a fine on Patex, threatening to recover it directly from the company's bank account without a hearing.

Pakistan's exchange control regime, administered by the SBP under the Foreign Exchange Regulation Act 1947, grants the central bank broad powers to regulate foreign exchange transactions. The Foreign Exchange Manual provides detailed permissions and procedures for various types of foreign exchange dealings. Notably, the Act includes an ouster clause in Section 26, limiting judicial review of SBP's actions.

Led by [Shahbakht Pirzada](#), RIAA Barker Gillette's team sought injunctive relief from the High Court to protect the Plaintiff from being penalized without any adjudication. We argued that this action violated principles of natural justice, as the company was not given an opportunity to present its case. We further emphasized that the delay was due to circumstances beyond Patex's control. We also pleaded for an exception to the ouster of jurisdiction clause in section 26 of the Act.

[Shahbakht Pirzada](#), Partner at RIAA Barker Gillette, lead counsel on the commented, "This interim order is significant as it reinforces the fundamental right to be heard before adverse regulatory action is taken, even in the context of the wide powers given to SBP under the Act. It also highlights the need to consider external factors and intent when determining regulatory penalties."

The Single Bench of the High Court granted an interim injunction restraining the SBP from recovering the penalty until a final judgment is reached.

This case demonstrates the complexities of navigating regulatory landscapes in Pakistan's business environment, particularly regarding foreign exchange controls during economic downturns. It also showcases our expertise in handling regulatory disputes and protecting clients' interests against unilateral actions by state bodies.

Contact Pakistan Partner [Shahbakht Pirzada](#) should you require assistance with foreign exchange or other regulatory disputes.

This article is not legal advice; it provides information of general interest about current legal issues.

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The firm practices in all areas of corporate, commercial and dispute resolution law. Leading international legal directories consistently recognize the firm as a top-tier law firm in Pakistan.

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