

**ORDER SHEET.**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Writ Petition No. 1461 of 2020**

**M/s Fauji Fertilizers Company Limited**  
**VS**

**Federation of Pakistan, etc**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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(1) 01.06.2020. Mr. Ayyaz Shaukat, Advocate for Petitioner.

The Petitioner in the instant Petition has impugned notice u/s 138 (1) of the Income Tax ordinance, 2001, dated 20.05.2020, for recovery of demand of Rs. 926,424,126/- created vide order passed under section 122(9) read with section 122(5A) of the Income Tax Ordinance, 2001, dated 13.09.2019, for the tax year 2015. Learned counsel for the petitioner submitted that the appeal against the said order is pending before Respondent No. 3 i.e. Commissioner Inland Revenue Appeals-I, thus the recovery of impugned demand is not justified.

2. Learned Counsel apprehends recovery of the disputed amount by the Respondents created through impugned notice issued under section 138(1), during the pendency of appeal before the Commissioner Appeals through coercive measures, hence, prayed for interim relief while relying on the case law reported as M/s Pak Saudi Fertilizers Ltd. Vs. Federation of Pakistan 7 others (2002 PTD 679), Z.N. Exporters (Pvt.) Ltd. Vs. Collector of Sales Tax (2003 PTD 1746), Brothers Engineering (Pvt.) Ltd. Vs. Appellate Tribunal Sales Tax (2003 PTD 1836), Brothers Textile Mills Ltd. Vs. Federation of Pakistan through Secretary & 3 others (2003 PTD 2834), M/s Pearl Continental Hotel, Lahore through Director Finance & another Vs. Customs

Excise and Sales Tax Appellate Tribunal, Lahore and another (2005 PTD 1368) and Sunrise Bottling Company (Pvt.) Ltd. through Chief Executive Vs. Federation of Pakistan and 4 others (2006 PTD 535).

3. Following the rule of consistency, and taking into consideration the law laid down by superior Court in the cases cited supra, I am inclined to dispose of this petition without the necessity of issuing notices to the Respondents with the directions to Commissioner Inland Revenue (Appeals-I), LTU, Islamabad, (the Respondent No. 3) to decide the appeal of the Petitioner expeditiously and preferably within a period of 60 days from the date of this order. Till the decision in the petitioner's appeal, the Respondent Department is directed to refrain from adopting the coercive measures for the recovery of the disputed demand created vide order passed under section 122(9) read with section 122(5A) of the Income Tax Ordinance, 2001, dated 13.09.2019, for the tax year 2015. The Petitioner is also directed to appear and argue the case before Respondent No. 3, without seeking any adjournment as and when the appeal is fixed for hearing.

4. The Petition is disposed of in above terms.

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**