

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.377/2016

Habibullah Coastal Power Company (Pvt) Limited

Versus

Federation of Pakistan, etc.

S. 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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25.05.2022.

Kh. Aizaz Ahsan, Advocate for the petitioner.
Mr. Riaz Hussain Azam Bopera, Advocate for the
respondents.

At the very outset, learned counsel for the petitioner contended that the instant petition has become infructuous inasmuch as the Appellant Tribunal Inland Revenue, Islamabad, has decided the appeal by the petitioner and has remanded the matter to the Assessing Officer. It was contended that a direction was sought in the writ petition for expeditious disposal of the appeal and also a declaration to the effect that amount of Rs.234 Million recovered illegally be declared without jurisdiction. It was further contended that since the main prayer has borne fruit on the above account and the matter has been remanded to the Assessing Officer to be decided in light of decision pending in Reference before the Division Bench of this Court in the matter titled M/s Rousch Pakistan Power Limited versus Deputy Commissioner Inland Revenue, the petition be disposed of accordingly; it was added that an observation may kindly be made to the effect that in case the question of law in the referred Reference is decided in favour of the petitioner, it shall be entitled for refund of the amount illegally recovered.

2. Learned counsel for the respondents concedes the position to the extent of petition becoming infructuous, however, objected to the fact that an observation can be made regarding the recovery. It was contended that no such prayer has been made.

3. The petitioner, in the instant petition, primarily sought two relief; one seeking direction to the Appellate Tribunal Inland Revenue to expeditiously decide the matter and secondly that recovery of the sum of Rs.234 Million be declared as without lawful jurisdiction. One of the prayers regarding direction has borne fruit and the matter has been decided by the Appellate Tribunal Inland Revenue on 12.04.2016. Insofar as the second relief is concerned, the same hinges upon the decision to be taken by this Court in tax reference pending before it in case titled M/s Rousch Pakistan Power Limited versus Deputy Commissioner Inland Revenue.

4. Naturally, in case the question of law raised in the referred tax reference is decided in favour of the petitioner, then it shall be entitled for refund of the amount recovered by the tax department in the sum of Rs.234 Million, if the facts and circumstances so permit. In this regard, no specific direction is required. Since the instant petition has become infructuous, the same is **disposed of** accordingly.

(AAMER FAROOQ)
JUDGE