

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

I.C.A. No.214/2019  
Mari Petroleum Company Limited  
**Versus**  
Federation of Pakistan through Secretary Revenue and others

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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27.05.2019	<b>Barrister Omer Azad Malik, for the appellant</b> <b>Mr. Babar Bilal, Advocate for the respondents</b>
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Through this order, we propose to decide intra Court appeals No.214/2019 to 216/2019, since they entail common questions of law and fact.

2. Through the said appeals, the appellant, Mari Petroleum Company Limited has impugned the judgment dated 29.04.2019, passed by the learned Judge-in-Chambers, whereby writ petitions No.1946/2017, 1991/2018 and 394/2019, were dismissed as not maintainable. In the said writ petitions, the appellant had challenged show cause notices issued under Section 4B read with Section 122(5A) of the Income Tax Ordinance, 2001 ("the 2001 Ordinance").

3. The appellant's writ petitions were dismissed by the learned Judge-in-Chambers primarily on the ground that the *vires* of Section 4B of the 2001 Ordinance stand settled through the judgment reported as 2018 PTD 287, and that a writ petition against a mere show cause notice is not maintainable.

4. It is well settled that mere issuance of a show cause notice does not amount to an adverse action. Reference in this regard may be made to the cases of Mir Nabi Bakhsh Khan Vs.

Branch Manager, National Bank of Pakistan, Jhatpat and others (2000 SCMR 1017) and Zaver Petroleum Corporation Limited Vs. Federal Board of Revenue (2016 PTD 2332). It is also well settled that a writ petition against the mere issuance of a show cause notice is not maintainable unless the same is wholly without jurisdiction and in violation of a statute. Reference in this regard may be made to the cases of Al-Ahram Builders (Pvt.) Ltd. Vs. Income Tax Appellate Tribunal (1993 SCMR 29), Pakistan Tobacco Company Limited Vs. Government of Pakistan (1993 SCMR 493), Deputy Commissioner of Income Tax/Wealth Tax, Faisalabad Vs. Punjab Beverage Company (Pvt.) Ltd. (2007 PTD 1347), Irum Shah Shahadi Vs. Principal School of Nursing, Mayo Hospital, Lahore (2017 PLC (C.S.) 943) and Apna T.V. Channel (Private) Limited Vs. Pakistan Electronic Media Regulatory Authority (2017 CLC 199). In the case at hand, there is no exceptional circumstance which would warrant interference with the impugned notices. In the case of Muhammad Aslam Vs. Federation of Pakistan and others (2017 PTD 803), it has been held *inter-alia* that apprehension that under the garb of a notice, coercive action would be taken against the petitioner was nothing but an apprehension and that the High Court in its Constitutional jurisdiction did not act upon mere apprehensions. Therefore, interference at this stage is not warranted.

5. Learned counsel for the appellant could not point out any provision of the law that had been violated by respondent No.4 by issuing the impugned show cause notice. He could also not

explain as to how the impugned notices were without lawful authority or jurisdiction. The appellant is at liberty to take the grounds agitated in the writ petition in the reply to the impugned show cause notices, which are expected to be taken into consideration by respondent No.4 before passing an order, unless the same has already been passed. In case respondent No.4 has already been passed an order, the appellant can assail such an order in an appeal.

6. In view of the above, these appeals are dismissed in *limine*.

(CHIEF JUSTICE)

(MIANGUL HASSAN AURANGZEB)  
JUDGE

Qamar Khan