

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

Writ Petition No. 697 of 2020

M/s Pakistan Mobile Communications Ltd.

VS

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.
---	---	--

02.03.2020.	Mr. Ayyaz Shoukat, Advocate for the petitioner.
--------------------	--

Petitioner through instant Petition has impugned notice u/s 137 (2) of the Income Tax Ordinance, 2001, issued by Respondent No.2, for recovery of demand of Rs.107,289,803/- created vide order dated 31.01.2020, passed by the Assistant Commissioner (IR), under section 124 read with section 161/205 of the Income Tax Ordinance, 2001, for the tax year 2014.

2. Learned counsel for the petitioner submitted that the appeal against the said order of the Assistant Commissioner (IR), is pending before Respondent No.3, who has rejected the petitioner’s application for stay vide his order bearing No. 191/2020 dated 19.02.2020. Against the said order the petitioner filed appeal for stay of disputed demand of Rs.107,289,803/- before respondent No.4 which is pending till date. He submitted that petitioner is exposed to recovery of the said demand and apprehended the same through **coercive measures as the thirty (30) days’** time allowed in notice of demand under

section 137(2) of Income Tax Ordinance, 2001 has already expired. Learned counsel further submitted that since petitioner's appeal is pending before Respondent No.3, thus the recovery of impugned demand is not justified. Learned Counsel for the petitioner in view of the said submissions, 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 Courts 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 receipt of this order. Till the decision in the petitioner's appeal, the Respondent Department is directed to

[3]

refrain from adopting the coercive measures for the recovery of the disputed demand created, vide order passed u/s 161/205 dated 31.01.2020. 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

Sherazi.