

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No. 03/2019

Foundation University Islamabad.

Vs

Federal Board of Revenue, 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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15-01-2019. M/s Muhammad Waqas Malik and Barrister Sohail Nawaz, Advocates for petitioner.
Ch. Muhammad Saleem Akhtar, Advocate for respondent No.5.
Mr. Ishfaan Hussain Naqvi, Advocate for respondent.
Mr. Shah Bahar, Deputy Commissioner.
Mr. Majid Naqvi, Inspector.

Pursuant to receiving notices of this Court the learned Counsel alongwith Mr. Shah Bahar, Deputy Commissioner and Mr. Majid Naqvi, Inspector have appeared. They have stated that notice under section 138(1) of Income Tax Ordinance, 2001 was issued and thereafter accounts of the petitioner Foundation were attached and the amount of the tax due was recovered.

2. The learned counsel for the petitioner Foundation has been heard at length. He has stated that the disputed amount was recovered despite the fact that appeal preferred by the

petitioner Foundation was pending. The learned Counsel was asked regarding maintainability of the petition because admittedly alternate remedy by way of filing the appeal has been availed. The learned Counsel has stated that the petitioner Foundation reserves its right to avail remedies available under the law against the illegal recovery of the disputed tax. He has, however, requested that the petitioner Foundation at this stage would be satisfied if the Commissioner, before whom application under section 2(36) Income Tax Ordinance, 2001 is pending, is directed to decide the matter expeditiously.

3. The request made by the learned Counsel for the petitioner Foundation has not been opposed by the learned Counsel for the respondent Department.

4. In view of the above, the concerned Commissioner who is to consider application under section 2(36) Income Tax Ordinance, 2001, is directed to afford an opportunity of hearing to an authorized representative of the petitioner Company and decide the pending application expeditiously, preferably within thirty (30) days

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from the date of receipt of a certified copy of this order.

5. The instant petition stands disposed of in the above terms.

CHIEF JUSTICE

sherazi.