

## **ORDER SHEET.**

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

### **Writ Petition No. 1273/2021**

M/s Abdul Ghaffar Traders.

***Versus***

Federation of Pakistan through Chairman, FBR, Islamabad & others.

<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>
(01)	05.04.2021	Mr. Ghulam Qasim Bhatti, Advocate for the petitioner.

The petitioner is aggrieved by recovery notices issued by respondent No.7 under Section 202 of the Customs Act, 1969, dated 27.02.2021 and 10.03.2021.

2. The learned counsel for the petitioner states that the recovery notices have been issued pursuant to an order-in-original dated 01.10.2014 that was never served on the petitioner and that the petitioner was never aware of. He submits that the WEBOC ID of the petitioner was canceled due to non use and for restoration of which, it filed Writ Petition No.645/2021 before this Court, which was converted into a representation and sent to respondent No.7 for decision. During those proceedings a copy of order-in-original was provided to the petitioner on 11.03.2021. The petitioner then challenged the said order before respondent No.3, who dismissed the appeal on grounds of limitation. The petitioner then filed an appeal before the learned Customs Appellate Tribunal/ respondent No.2 on 31.03.2021 along with an application for injunctive relief. But that respondent No.2 is presently dysfunctional and therefore, the appeal and the stay application have not been taken up. The learned counsel

for the petitioner states that the order-in-original reflects the address of premises of the petitioner which has not changed over the years. However, no copy of the said order was ever received. He further states that the order-in-original is an ex-parte order, which has been passed against twenty four respondents and none of those twenty four respondents were in appearance before the relevant authorities when the said order was passed and consequently no adjudication has ever taken place in relation to the subject-matter that forms part of the order-in-original. The learned counsel further states that no recovery proceedings were affected by the respondents even though the order-in-original was passed in year 2014 and it is only after the petitioner has made efforts to have its WEBOC ID restored that the recovery proceedings have been initiated. He submits that it is settled law that no coercive recovery is to be affected till such time that at least one forum outside the hierarchy of the tax authorities adjudicates the matter. And given that the petitioner's appeal and the stay application are pending adjudication before respondent No.2, the respondents may be restrained from affecting coercive recovery.

3. Let notices be issued to respondents No.1, 4, 5, 6 & 7, who will file report and para-wise comments within a period of two weeks with an advance copy to the learned counsel for the petitioner. The office is directed to fix this matter on 26.04.2021.

**C.M. No. 01/2021**

Notice. Meanwhile, the impugned recovery notices dated 27.02.2021 and 10.03.2021 will stay suspended till the next date of hearing.

**C.M. No. 02/2021**

Exemption sought for is allowed subject to all just and legal exception.

**(BABAR SATTAR)  
JUDGE**

A. Rahman Abbasi