

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.2722 of 2021
Mustafa Javed Panni

Versus

Federation of Pakistan and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	02.08.2021	Barrister Shahzad Javed Panni, for the petitioner.

Through the instant writ petition, the petitioner, Mustafa Javed Panni, impugns show cause notice dated 24.12.2020 issued under Section 122(9) of the Income Tax Ordinance, 2001 (“the 2001 Ordinance”) by the Assistant / Deputy Commissioner (Audit-III) Inland Revenue, Range-II, Unit-VI, Corporate Tax Office, Lahore (respondent No.5) whereby the petitioner was required to produce the documents on the basis of which he had filed his return of income for the tax year 2014.

2. Learned counsel for the petitioner submitted that the jurisdiction of the petitioner was changed from Regional Tax Office, Islamabad to Regional Tax Office, Lahore without proper appreciation of the relevant facts; that the change of jurisdiction was done without affording an opportunity of hearing to the petitioner; that on 26.10.2015, a notice was issued to the petitioner by the Commissioner Inland Revenue, Islamabad (respondent No.4) informing him that his case has been selected for the audit for the year 2014 through random computer balloting; that subsequently, the petitioner received another notice dated 11.04.2016 from Assistant / Deputy Commissioner Inland Revenue, Audit Unit-IV Zone-I, Regional Tax Office, Islamabad (respondent No.6) requiring the petitioner to produce the relevant books of accounts etc.; that in response to the said notice, the petitioner had submitted the

required documents; that after a lapse of more than five years, the petitioner received the impugned notice dated 24.12.2020 from respondent No.5 requiring the petitioner to produce the relevant documents; that the required documents have been submitted to respondent No.5 on 30.12.2020; that on 31.12.2020, an assessment order was issued against the petitioner on the date which was the last date for the submission of the reply; that the impugned assessment order has been passed without taking account of the petitioner's replies in the evidence produced by him; that another notice dated 10.06.2021 has been issued by respondent No.6 for advance tax, which shows that the petitioner's jurisdiction has been changed once again; and that the impugned notices are in violation of the petitioner's fundamental rights. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

4. The prayer clause of the writ petition shows that the petitioner has impugned a show cause notice. This notice was issued as far back as 24.12.2020 (i.e. more than seven months ago). Therefore, this petition is liable to be dismissed on account of *laches*.

5. It appears that the petitioner has already preferred an appeal before the Commissioner Inland Revenue (Appeals-II), Lahore (respondent No.3) against the impugned show cause notice dated 24.12.2020 and assessment order dated 31.12.2020. Since the petitioner has already invoked the alternative remedy of an appeal under the law, this is an additional reason why this

petition is liable to be dismissed as not maintainable.

6. As regards the petitioner's grievance *qua* the change of jurisdiction, the petitioner, as mentioned above, is throwing a belated challenge to the same. Be that as it may, the petitioner could take all the objections available to him under the law in the reply to the impugned show cause notice. The impugned show cause notice dated 24.12.2020 has already culminated in the assessment order dated 31.12.2020 against which an appeal has already been preferred by the petitioner. Since the petitioner has already availed the alternative remedy provided under the law, the instant petition is dismissed as not maintainable.

(MIANGUL HASSAN AURANGZEB)
JUDGE