

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.3159/2019

M/s Murree Brewery Company Limited

Versus

Deputy Commissioner Inland 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.
-------------------------------	----------------------------	---

23.09.2019	Hafiz Muhammad Idris, Advocate for the petitioner
------------	---

Through the instant writ petition, the petitioner, M/s Murree Brewery Company Limited, seeks a restraint against the respondents from recovering the impugned tax liability until the decision on the petitioner's appeal, which is pending adjudication before respondent No.2 (Commissioner Inland Revenue (Appeals-I)).

2. The record shows that vide order dated 30.03.2019, a demand for an amount of Rs.2,56,805,519/- was raised against the petitioner by respondent No.1 (Deputy Commissioner Inland Revenue) in terms of Section 182 of the Income Tax Ordinance, 2001 ("the 2001 Ordinance") pertaining to the Tax Year 2015. The petitioner challenged the said order dated 30.03.2019 in an appeal before respondent No.2. Along with the said appeal, the petitioner also filed an application for grant of stay. Respondent No.2, vide orders dated 12.04.2019, rejected the said stay application. Subsequently, the petitioner challenged the said orders dated 30.03.2019 and 12.04.2019 in an I.T.A.No.1222/2019 before respondent No.3 (Appellate Tribunal Inland Revenue). Vide order dated 25.04.2019, respondent No.2 granted stay for a period of thirty days against the recovery of

impugned tax demand with the direction to respondent No.2 to decide the case within a period of thirty days. Despite the said direction, the petitioner's appeal has not been decided by respondent No.2 and as a result, the petitioner approached this Court against the recovery of the impugned tax liability by filing writ petitions No.2006/2019 and 2725/2019. This Court vide orders dated 23.05.2019 and 25.07.2019, granted stay for a period of 120 days.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal is still pending adjudication before respondent No.2, the petitioner has an apprehension that the respondent department may initiate recovery proceedings due to expiry of stay granted by this Court vide order dated 25.07.2019; that fearing the adoption of coercive measures during the pendency of the petitioner's appeal before respondent No.2, the petitioner has invoked the Constitutional jurisdiction of this Court to obtain a reprieve, as a stopgap measure, against the recovery of the disputed tax liability; and that if the interim reprieve is not granted, the petitioner shall be subjected to coercive measures.

4. Consistent with the order dated 18.04.2016, passed by this Court in W.P. No.1367/2016 and by following the law laid down in the cases of M/s Pak Saudi Fertilizers Ltd Vs. Federation of Pakistan & 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) and Mehram Ali Vs. Federation of Pakistan etc (PLD 1988 SC 1445), I am inclined to dispose of this petition with the direction to respondent No.2

to decide the petitioner's appeal within a period of sixty days and till then no coercive measures shall be adopted against it for the recovery of disputed tax liability. The petitioner is directed to appear and argue its case before respondent No.2 without seeking any adjournment as and when the appeal is fixed.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Qamar Khan*