

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

Writ Petition No. 2583/2021

D-Watson

Versus

Federation of Pakistan through Chairman, FBR, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(01)	16.07.2021	Hafiz Muhammad Idrees, Advocate for petitioner.

Through the instant writ petition, the

petitioner/D-Watson has prayed for following relief: -

"It is therefore, respectfully prayed that an appropriate writ may graciously be issued by: -

- 1. Declaring that the SRO No. 494(I)/2015 dated June 30, 2015, 1360(I)/2018 dated November 12, 2018, and SRO No. 1203(I)/2019 dated October 10, 2019, as illegal, without lawful jurisdiction, arbitrary, without backing of law and discriminatory;*
- 2. Declaring that the SRO No.470(i)/2007 dated June 9, 2007, 494(I)/2015 dated June 30, 2015, 1360(I)/2018 dated November 12, 2018 and SRO No. 12303(I)/2019 dated October 10, 2019, are against the ration settled by the Honourable Supreme Court of Pakistan in case titled as **Mustafa Impex**;*
- 3. Declaring the Chapter XIV-AA as discriminatory, unconstitutional based on mala fide in nature being framed only for registered persons;*
- 4. Declaring the rules made for real time declaration of sales are against the provisions of Section 26 of the Act, 1990;*
- 5. Declaring that the proceedings initiated by the respondent No.3 for mandatory installation of POS without lawful jurisdiction, without lawful authority;*
- 6. Declaring the whole process against the fundamental rights of the petitioner;*
- 7. Grant any other relief which is fit to compensate the petitioner.*

2. Learned counsel for the petitioner *inter-alia* contends that the Federal Board of Revenue (FBR) has issued S.R.O. No. 1203(I)/2019 dated 10.10.2019 without lawful jurisdiction, as the effect of the said SRO is legally not justified unless Section 23 of the Sales Tax Act, 1990 be amended first. He further contends that the framing of Rules without making amendment in the main statute is

illegal, therefore, impugned SRO required to be declared illegal *void ab initio*.

3. Question raised needs consideration.

4. Let notice be issued to the respondents for 24.08.2021, through Registered Post A.D. and TCS, subject to deposit of process fee.

5. As the *vires* of SRO issued by the FBR has been challenged in this case, therefore, notice may also be issued to the Attorney General for Pakistan in terms of Order XXVII-A CPC, in order to seek his assistance.

C.M. NO. 01/2021.

Notice. In the meanwhile, no coercive measures be adopted against the petitioner, till the next date of hearing.

C.M. NO. 02/2021.

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

(MOHSIN AKHTAR KAYANI)
JUDGE

Khurram