

Form No: HCJD/C-121.

**ORDER SHEET**

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

**W.P. No. 3896 of 2014**

Commissioner IR

*Vs*

OGDCL, etc.

S. No. of order/ proceedings	Date of hearing	Order with signature of Judge and that of parties or counsel where necessary.
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**08-9-2014.** Mr. Abdul Shakoor Paracha & Ms Wajeeha Pervez Advocates,  
for the petitioner.

Briefly stated, the petitioner is Commissioner, Inland Revenue LTU (Legal Division), Large Tax Payers Unit, Islamabad. As a petitioner the Commissioner has impugned order dated 8-8-2014, passed by the Appellate Tribunal, Inland revenue, Islamabad (hereinafter referred as the "Tribunal"), by seeking to invoke the Constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred as to "Constitution") .

2. At the very outset a question was raised by this Court, whether the petitioner is an "aggrieved person" for the purposes of Article 199 of the Constitution? The learned counsel for the petitioner was asked to address this question before proceeding on merits. Addressing this question, the learned counsel for the petitioner argued that the petitioner is a party to the proceedings before the Tribunal and, therefore, is "aggrieved" of the impugned order. It was contended that the petitioner is a "person" and

as such is an “aggrieved party” for the purposes of Article 199 of the Constitution. The learned counsel places reliance on “*Diwan Azmat Said Muhammad vs Haji Bakhtiar Saeed*”, 1996 CLC 1427 and “*Miss Nadra Imam vs The Appellate Committee for Permanent Residence Certificate through its Chairman, The Home Secretary, Government of Sind, Karachi and others*”, PLD 1976 Karachi 851, in support of his contention that the petitioner as a “person” is competent to invoke the jurisdiction of this Court under Article 199 of the Constitution.

3. After giving careful consideration to the arguments of the learned counsel this Court is of the opinion as follows:

4. The petitioner has impugned an order of the Tribunal seeking issuance of a writ which essentially falls under Article 199 (1) (a) of the Constitution. The relevant portion is as follows:-

*199. (1) Subject to the Constitution, a High Court may, if it is satisfied that no other adequate remedy is provided by law,-*

*(a) On the application of any aggrieved party, make an order.*

*(i) .....*

*(ii) .....*

5. The above Clause (a) of Article 199 (1) of the Constitution provides that a High Court may make an order on the application of any “aggrieved party”. The term “aggrieved person” or an “aggrieved party” has been

interpreted by the august Supreme Court and has held in “*Director, Directorate General of Intelligence and Investigation and others vs Messrs Al-Faiz Industries (Pvt) Ltd and others*”, 2006 SCMR 129, that an “aggrieved person” or an “aggrieved party” relates to a person or a party whose legal right was invaded or whose pecuniary interest was directly affected by a decree or judgment and would mean a private party. The said view was followed and affirmed in the case of “*Director General, Intelligence and Investigation vs Sher Andaz and 20 others*”, 2010 PTD 2006. It is noted that august Supreme Court also approved the interpretation of the term “aggrieved party” as held in the judgment of Sind High Court, in the case “*Director, Directorate General of Intelligence and Investigation, Customs and Excise, Karachi vs Messrs Al-Faiz Industries (Pvt) Ltd*” 2004 PTD 2987. In the said judgment the Sind High Court, has held as follows:

*“We are of the view that the expression ‘aggrieved person’ and the ‘Collector’ used in section 196 are significant. The expression ‘aggrieved person’ denotes a person who has got a legal grievance i.e. person is wrongfully deprived of anything to which he is legally entitled and not merely a person who suffer some sort of disappointment as in the instant case. The Director, might have been disappointed for the reason that a proceeding initiated on his initiative has failed; but he has not suffered any personal injury.*

*The interpretation of term ‘aggrieved party’ is in line with the definition of ‘aggrieved person’ given in the Black’s Law Dictionary, Sixth Edition which defines it as*

*‘one whose legal right is invaded by an act complained of or whose pecuniary interest is directly and adversely affected by a decree or judgment. One whose right of property may be established or divested. The word ‘aggrieved’ refers to a substantial grievances, a denial of some personal, pecuniary or property right, or the imposition upon a party of a burden or obligation. In the light of above definition, the Director cannot be termed to be an ‘aggrieved party’.*”

6. In the light of the above, the petitioner being the Commissioner of Inland Revenue cannot claim to have been wrongfully deprived of anything to which he is legally entitled. There is no denial of some personal, pecuniary or property right, or the imposition upon him of a burden or an obligation. He might be disappointed with the impugned order but has obviously not suffered any personal injury. This Court is, therefore, of the view that the Commissioner i.e. petitioner while discharging his official duties under the Income Tax Ordinance, 2001 (hereinafter referred to as “Ordinance”) is not an “aggrieved party” for the purposes of Article 199 of the Constitution.

7. There is yet another aspect of this case. The Tribunal is the creation of the Ordinance and section 133 thereof provides for filing a Reference against the orders passed by the Tribunal under section 132 (7). The petitioner being a party to the proceedings before the Tribunal shall have a statutory right to invoke the provisions of Section 133, by filing a Reference against the order/judgment of

Tribunal. It is a settled law that when law requires an act to be done in a particular manner, it had to be done in that manner alone and such dictate of law would not be termed as a mere technicality. Reliance is placed on "*Javed Jabbar and 14 others vs Federation of Pakistan and others*", PLD 2013 SC 955.

8. In the light of the above discussion, instant petition is not competent; therefore, same is hereby dismissed in lemni accordingly.

(ATHAR MINALLAH)  
JUDGE

Announced in the open Court on 15-9-14.

JUDGE

Approved for reporting.

*Asif M\*/.*