

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 1069 of 2020

M/s Islamabad Electric Supply Company Limited
Versus

Additional Commissioner Inland Revenue III, Range 1, Corporate Zone, RTO,
Islamabad and others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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08.04.2020. Mr. Muhammad Asif Khan, Advocate for the petitioner.

Through the instant second writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed order dated 10.02.2020 passed by the respondent No.1/department and seeks direction to respondent No.2 for expeditious disposal of its appeal.

2. The facts leading to filing of the present writ petition are that respondent No.1 passed order dated 10.02.2020 and created demand of Rs. 67,686,235/- in respect of tax year 2017. The said order of respondent No.1 was challenged by the petitioner in appeal and also filed a stay application alongwith it before respondent No.2, which are pending adjudication.

3. The learned counsel for the petitioner submitted that the impugned notice is illegal, arbitrary and against the law. It was further contended that initiation of recovery proceedings as well as attachment of accounts of petitioner during the pendency of petitioner's appeal are against fundamental rights guaranteed under the Constitution. It was further

contended that it is trite law that unless there is adjudication by one independent forum, no recovery proceedings can be initiated against the assessee. In this behalf learned counsel placed reliance on the case titled "Z.N. Exporters Pvt. Ltd. V. Collector of Sales Tax" (2003 PTD 1746 Lahore), "*Sun-Rise Bottling Company Pvt. Ltd. V. Federation of Pakistan and 4 others*" (2006 PTD 535 Lahore), "*Dawood Textile Printing Industries Pvt. Ltd. Vs Federation of Pakistan and 4 others*" (2009 Tax 344 Lahore). Learned counsel further contended that delay in decision of the appeal is not on part of the petitioner, therefore, recovery proceedings be stopped till the final decision of the petitioner's appeal by respondent No.2.

4. The submissions made by the learned counsel for the petitioner have substance. In this behalf the Hon'ble Supreme Court of Pakistan in the case titled "*Mehram Ali and others V. Federation of Pakistan and others*" (PLD 1998 SC 1445) has specifically held that there should be adjudication of grievance by an independent Tribunal and even Lahore High Court in numerous judgments has held that an assessee is entitled to adjudication in respect of his disputed tax liabilities by at least one independent forum outside hierarchy of the respondent department.

5. In view of the above, the instant petition is **disposed of** with direction to respondent No.2 to decide the appeal of the petitioner within 60 days and till then no coercive measures shall be adopted against it for

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.

(AAMER FAROOQ)
JUDGE

M. Shah.