

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.1242/2018

World Learning Inc.

Versus

Federal Board of Revenue, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	05.10.2022	Barrister Muhammad Mumtaz Ali, Advocate for the petitioner. Syed Ghulam Nabi Shah, Advocate for the respondents.

The petitioner is aggrieved of notices dated 26.03.2018, whereby estimation with respect to advance tax under the Income Tax Ordinance, 2001 ("**the Ordinance**") was disregarded and certain amount calculated to be payable was intimated to the petitioner alongwith recovery notice of the referred amount.

2. Learned counsel for the petitioner, *inter alia*, contended that the issue in hand already stands decided by this Court through judgment reported as Fauji Fertilizer Company Limited versus Federation of Pakistan through Secretary, Ministry of Finance, Islamabad and 3 others (2018 PTD 719) and disregard of the estimation by the petitioner and issuance of recovery notice, hence without lawful authority.

3. Learned counsel for the respondents, *inter alia*, contended that the instant petition is not maintainable inasmuch as appeal already has been filed by the petitioner. It was contended that since alternate remedy

has been availed, hence the instant petition needs to be dismissed.

4. Arguments advanced by learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

5. The objection taken by respondent No.3 that appeal is pending is without substance inasmuch as the appeal referred to by him pertains to different issue as is borne out from order dated 20.02.2018, passed by respondent No.2, which pertains to granting of status as Non-profit Organization (NPO). Insofar as question of estimation to be filed under the Ordinance qua advance tax payable and jurisdiction of the tax department with respect to the same is concerned, it was thoroughly discussed by this Court in Fauji Fertilizer Company Limited versus Federation of Pakistan through Secretary, Ministry of Finance, Islamabad and 3 others (2018 PTD 719). This Court observed as follow:

"6. In view of the above decision of this Court, if the estimation filed by the petitioner is incorrect, the respondent department may proceed against the petitioner under section 205 of the Ordinance when the tax returns are filed by it. However, at this stage, if the estimation has been filed within the prescribed time period and installments are being paid, no action can be initiated by the department against the petitioners with respect to the referred issue."

In view of the conclusion in the said judgment (rendered after thorough discussion of the relevant law), which is

squarely attracted in the instant petition as well, the impugned letters merit setting-aside on the basis thereof.

6. In view of the foregoing, the impugned letters are **set-aside** and petition is accordingly **accepted**.

(AAMER FAROOQ)
JUDGE

M. Shah/*