

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.1164 of 2020

M/s Hong Kong Huihua Global Technology (Pvt.) Limited

Versus

Federation of Pakistan through Secretary, Ministry of Finance and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.04.2020	Malik Ghulam Sabir and Mr. Asad Ladha, Advocates for the petitioner

Through the instant writ petition, the petitioner, M/s Hong Kong Huihua Global Technology (Pvt.) Limited, seeks a restraint against respondents No.4 and 5 from recovering disputed tax liability until the decision on the petitioner's appeal which is pending adjudication before respondent No.3 (Commissioner Inland Revenue).

2. The record shows that vide assessment order No.05/05, dated 31.01.2020, a demand for an amount of Rs.7,40,237,861/- was raised against the petitioner, by respondent No.2 (Deputy Commissioner Inland Revenue) under Section 122(1) read with 122(5) of the Income Tax Ordinance, 2001 ("the 2001 Ordinance") for the tax year 2016. Against the said Order, the petitioner preferred an appeal before respondent No.3. Along with the said appeal, the petitioner also filed an application for grant of stay. Vide order dated 16.03.2020, respondent No.3 granted stay of recovery proceedings for twenty days or until the decision of the main appeal. On the expiry of stay, the petitioner filed an application for extension in stay, which is still pending adjudication before respondent No.3.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal as well as application for extension in stay is still pending adjudication, the petitioner has an apprehension that the respondent department may initiate recovery proceedings due to expiry of stay granted by respondent No.3; that the petitioner's application for extension in

stay has not been taken up for hearing due to the notification dated 27.03.2020 issued by respondent No.4; that fearing the adoption of coercive measures during the pendency of its appeal, 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 during the pendency of its appeal before respondent No.3; 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, without the necessity of issuing notice to the respondents, with the direction to respondent No.3 to decide the petitioner's application for extension in stay/appeal expeditiously and preferably within a period of sixty days from today. Until the decision on the petitioner's application for extension in stay/appeal, the respondent department is directed to restrain from adopting coercive measures for the recovery of the disputed tax liability. The petitioner is directed to appear and argue its case before respondent No.3 without seeking any adjournment as and when its application for extension in stay/ appeal is fixed for hearing.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE