

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

W.P.No.1670 of 2021

M/s Payoneer Inc.

**Versus**

Federation of Pakistan through Secretary Revenue Division and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	06.05.2021	Barrister Jahanzeb Awan, Mr. M. Uzair Bin Shafie and Barrister Kabir Hashmi, for the petitioner.

Through the instant writ petition, the petitioner, M/s Payoneer Inc., impugns the notices dated 07.04.2021 issued by respondent No.3 (Assistant / Deputy Commissioner, Offshore and Digital Economy Taxation, Federal Board of Revenue) under Section 114(1) of the Income Tax Ordinance, 2001 (“I.T.O.”) calling upon the petitioner to file its returns of income for the tax years 2019 and 2020 by 28.04.2021 failing which Best Judgment Assessment would be made under Section 121(1) of the I.T.O. and the petitioner would be liable to a penalty under Section 182(1) or prosecution under Section 191 of the I.T.O. The petitioner also assails its compulsory registration made by the Federal Board of Revenue (“F.B.R.”) on 26.03.2021.

Learned counsel for the petitioner submitted that the petitioner is incorporated as a company under the laws of Delaware, USA; that the petitioner does not have a permanent establishment in Pakistan of terms of Section 2(41) of the I.T.O.; that the Assistant Commissioner, Inland Revenue, vide letter dated 11.11.2020, required the petitioner to provide information regarding its total revenue earned from Pakistan’s operations between 01.07.2018 to 30.06.2020; that the petitioner was alleged to have earned Pakistan’s source income for offshore digital services rendered to Pakistani

customers; that vide letter dated 18.12.2020, the petitioner's auditors informed respondent No.3 that the petitioner had not generated any revenue from money transfer services to beneficiaries in Pakistan, and that the petitioner had not received any consideration from Mobilink Microfinance Bank Ltd. ("M.M.B.L") for money transfer services in Pakistan; that Article III(1) of the *"Convention between the Government of USA and the Government of Pakistan for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income"* provides that a United States Enterprise shall not be subject to Pakistan tax in respect of its industrial or commercial profit unless it is engaged in trade or business in Pakistan through a permanent establishment situated therein; that the petitioner is a non-resident entity and does not have any physical or digital presence in Pakistan; that the petitioner neither has any employees based in Pakistan nor is involved in rendering of services to any person in Pakistan; that under the agreement signed between the petitioner and M.M.B.L., the former does not receive any consideration from any person in Pakistan; and that the impugned notices could only have been issued by the Commissioner, Inland Revenue.

Issue notice to the respondents.

Re-list in the 1<sup>st</sup> week of June, 2021.

**C.M.No.01/2021**

Notice. The petitioner shall submit a reply to the impugned notices dated 07.04.2021 and take all the legal and factual objections in its reply. The petitioner shall be afforded an opportunity of a hearing before a decision is taken on its objections. Until the next date of hearing,

measures under Sections 121(1), 182(1) or 191 of the I.T.O. shall not be taken against the petitioner.

**C.M.No.02/2021**

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

**(MIANGUL HASSAN AURANGZEB)  
JUDGE**

Sultan\*