

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 1603/2021

Attock Petroleum Limited

Vs.

Pakistan, etc.

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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01.	30.04.2021.	Mr. Hyder Ali Khan, Advocate for the petitioner.
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Learned counsel, *inter alia*, submitted that notice u/s 25 of Sales Tax Act, 1990 read with Section 46 of Federal Excise Tax Act, 2005, dated 26.03.2021, pertaining to the tax period 2019-20, issued by respondent No.3, is unlawful and without jurisdiction as the same is in conflict with the Full Bench judgment of this court, passed in case of *Pakistan Telecommunication Company vs. Federation of Pakistan (2016 PTD 1484)*. He submitted that before proceeding to conduct audit in pursuance to the notice, opportunity of hearing has not been afforded to the petitioner by the Commissioner. He further submitted that both the department as well as petitioner have challenged the above cited judgment before the Hon'ble Supreme Court, whereby the leave to appeal have

been granted, vide order dated 30.03.2017, however, no interim order of suspension of the judgment of this Court or order granting stay have been passed by the August Supreme Court while granting leave. In this regard also referred interim orders passed in W.P. No. 1052/2021, dated 17.03.2021 and other connected petitions.

2. Learned counsel further submitted that impugned notices have been issued in pursuance of letter issued by FBR for Sectoral Audit of all oil marketing companies with the directions to complete the Audit within a specific time period and according to the timeline provided therein. He submitted that this action of the respondents is contrary to the statutory provisions for selection and conducting of Audit under the Sales Tax Act, 1990 as such the action of the respondents is without lawful authority and jurisdiction.

3. Let notice be issued to the respondents as well as to the Attorney General of Pakistan for **17.05.2021** with the direction to file comments before the next date of hearing. Office is directed to fix W. P. No. 1052/2021 and other connected petitions along with instant petition.

C.M No. 01/2021.

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

C.M No. 02/2021.

Notice. Respondents No.3 and 4 are directed to keep the proceedings in abeyance till the next date of hearing.

(LUBNA SALEEM PERVEZ)
JUDGE