

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.1816/2019
M/s University Town (Private) Limited
Versus
Federation of Pakistan through Chairman, Federal Board of Revenue and
others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	08.05.2019	Mr. Muhammad Mohsin Nazir and Hafiz Muhammad Idris and Advocates for the petitioner

Through the instant writ petition, the petitioner, M/s University Town (Pvt.) Ltd., impugns show cause notice dated 14.01.2019 issued by respondent No.3, wherein it has been alleged that the petitioner has violated the provisions of Section 3 of the Islamabad Capital Territory (Tax on Services) Ordinance, 2001 read with S.R.O. 495(I)/2016 by evading sales tax on services amounting to Rs.2,42,656,242/-.

2. The proceedings pursuant to the said show cause notice culminated in order-in-original No.21/2019, dated 21.03.2019. The petitioner has already preferred an appeal against the said order-in-original.

3. Learned counsel for the petitioner submitted that the petitioner’s project/ housing scheme is situated in Rawalpindi; that a non-encumbrance certificate for the petitioner’s project was issued by the Sub-Registrar, Rawalpindi, on 05.06.2012; that the revised planning permission was also granted by the Rawalpindi Development Authority on 19.04.2016; that on 14.03.2017, compulsory registration has been made by the Additional Commissioner, Punjab Revenue Authority, Rawalpindi (respondent No.4); that earlier

compulsory registration had been made by respondent No.3 on 08.03.2016; that the petitioner has been filing its sales tax returns with the Punjab Revenue Authority; that respondent No.3 did not have the jurisdiction to issue the impugned show cause notice or to pass the order-in-original against the petitioner; that vide letter dated 06.03.2019, the petitioner had already applied to respondent No.3 for its de-registration on the ground that the petitioner's project fell within the domain of the Punjab Revenue Authority; and that while passing the impugned show cause notice and the order-in-original, respondent No.3 erred by not appreciating that he did not have the jurisdiction in the matter. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

4. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

5. It is an admitted position that the proceedings pursuant to the impugned show cause notice dated 14.01.2019 issued by respondent No.3 has already culminated in order-in-original No.21/2019. The said order is admittedly an appealable order. In the appeal, the petitioner is at liberty to take all the grounds available to it, including the one regarding the jurisdiction of respondent No.3 to have issued the show cause notice. The question as to whether respondent No.3 had the jurisdiction to issue the show cause notice and pass the order-in-original in view of the fact that the petitioner's project is situated in Rawalpindi and that the petitioner has already been registered with the Punjab Revenue

Authority, are for the appellate authority to decide. It is well settled that the objections to the jurisdiction of a Court or a Tribunal ought to be decided first or in the order passed on merits.

6. This petition stands disposed of in terms of the said observations.

(MIANGUL HASSAN AURANGZEB)
JUDGE

*Ahtesham**