

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

W.P. No.1785-2016

Zaver Petroleum Corporation Limited
Vs.

Commissioner Inland Revenue, LTU, Islamabad 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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11.01.2023	Mr. Salaar Khan, Advocate for petitioner. Barrister Suhail Nawaz, Advocate for respondents.
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The petitioner is aggrieved of notices dated 12.04.2016 & 25.04.2016, whereby it has been intimated that its case has been selected for ‘Audit’ under section 177 of the Income Tax Ordinance, 2001.

2. Learned counsel for the petitioner *inter alia* contended that under proviso to section 177 of the Income Tax Ordinance, 2001, reasons have to be provided, which have not been done in the instant matter. It was contended that even-otherwise, reasons which have been listed in the impugned notices, do not qualify to meet the criteria set down by this Court in case reported as ‘Pakistan Telecommunication Company Limited Vs. Federation of Pakistan’ (2016 PTD 1484). It was submitted that in the said circumstances, impugned notices need to be quashed.

3. Learned counsel for the respondents *inter alia* contended that reasons have been provided and there is no justification or basis for setting aside impugned notices.

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

5. As noted above, the petitioner is aggrieved of notices issued under section 177 of the Income Tax Ordinance, 2001. The interpretation of the referred provision came up for consideration before this Court in case reported as 'Pakistan Telecommunication Company Limited Vs. Federation of Pakistan' (2016 PTD 1484), wherein this Court, while laying down the criteria, also observed that after issuance of notices under section 177 of the Income Tax Ordinance, 2001, opportunity of hearing ought to be granted. In a recent judgment of the Hon'ble Sindh High Court in case reported as Saleem Butt Vs. Pakistan through Secretary Revenue Division and 2 others (2022 PTD 716), the Hon'ble Sindh High Court held that notice under section 177 of the Income Tax Ordinance, 2001 does not attract judicial review provided the reasons are spelt out in the same. Similar observations were made in case reported as Raza Motor Industries through Authorized Representative Vs. Federation of Pakistan through Secretary Finance, Revenue Division, Islamabad and 3 others (2022 PTD 19).

6. In view of above case law of this Court as well as from other High Courts, selection for 'Audit' *per se* is not an adverse order and does not mandate interference by this Court in judicial review, however, reasons are to be provided under proviso to section 177 of the Income Tax Ordinance, 2001 by way of notice to the taxpayer, which respondents have done, however, it is only appropriate that in terms of the earlier judgment of the Larger Bench of this Court in case reported as 'Pakistan Telecommunication Company Limited Vs. Federation of Pakistan' (2016 PTD 1484), opportunity of hearing be provided, wherein respondent Department may hear out the petitioner and record objections, if any, through a speaking order.

7. In view of foregoing, no interference is required by setting aside impugned notices, however, respondents shall do the needful in light of the afore-noted judgment of this Court and observations made hereinabove.

8. Disposed of accordingly.

(CHIEF JUSTICE)