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

W.P.No.59/2019
M/s Pakistan Mobile Communications Limited
Versus
Federation of Pakistan and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09.01.2019	Mr. Ayyaz Shaukat, Advocate for the petitioner.

Through the instant writ petition, the petitioner, M/s Pakistan Mobile Communications Limited, seeks issuance of a writ restraining respondent No.2 (Additional Commissioner Inland Revenue) 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 order dated 12.12.2018, a demand for an amount of Rs.7,732,260,392/- was raised against the petitioner by respondent No.2 in terms of Section 122(5A) of the Income Tax Ordinance, 2001 ("the 2001 Ordinance") pertaining to the tax year 2013. The petitioner challenged the said order dated 12.12.2018 in an appeal before respondent No.3. Along with the said appeal, the petitioner also filed an application for grant of stay.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal is still pending adjudication before respondent No.3, the petitioner has an apprehension that the respondent department may initiate recovery proceedings; that fearing the adoption of coercive measures during the pendency of the petitioner's appeal before respondent No.3, 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;

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 appeal expeditiously, and preferably within a period of 60 days from today. Until the decision on the petitioner's 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 appeal is fixed for hearing.

5. Disposed of in the above terms.

(MIANGUL HASSAN-AURANGZEB)
JUDGE

Sultan*