

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 2335 of 2020

Utility Stores Corporation of Pakistan (Private) Limited
VS
Federation of 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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(1)	28.08.2020.	Hafiz Muhammad Idress & Muhammad Mohsin Nazir, Advocates for Petitioner.
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Through this petition, the petitioner seeks restraining order against Respondent No. 1 from issuing notice u/s 48 of Sales Tax Act, 1990, for recovery of disputed sales tax demand of Rs. 144,614,543/- along with default surcharge and penalty of Rs. 7,230,727/- vide Order-in-Original No. 08 of 2019, dated 29.01.2020, u/s 11(2) of Sales Tax Act, 1990.

2. Facts in brief are that respondent No. 1 passed Order-in-Original No. 08/2020 dated 29.01.2020, creating tax demand of Rs. 144,614,543/- against the petitioner u/s 11(2) of the Sales Tax Act, 1990, recoverable along with default surcharge and penalty. Against the said order, the petitioner filed appeal before the respondent No. 2 on 18.06.2020, along with stay application, however, respondent No. 2 rejected the stay application vide order in stay No. 29/2019, dated 23.06.2020. Against the rejection of stay application dated 23.06.2020, the petitioner filed stay application before the Appellate Tribunal Inland Revenue for grant of stay from the recovery of disputed tax demand.

The Appellate Tribunal vide M.A (Stay) STA Interim No. 237/IB/2020, STA (Interim) No. 131/IB/2020 dated 29.06.2020, granted the stay of 60 days which time limit is lapsed and the petitioner apprehends that respondent No. 1 may start recovery proceedings.

3. Learned Counsel further submitted that appeal against the Order-in-Original is still pending for adjudication before Respondent No. 2 which has not yet fixed for hearing, hence the petitioner apprehends recovery of the disputed amount by the Respondent No. 1 during the pendency of appeal before the Commissioner Appeals through coercive measures, hence, prayed for interim relief while relying on the case law reported as M/s Pak Saudi Fertilizers Ltd. Vs. Federation of Pakistan 7 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), Brothers Textile Mills Ltd. Vs. Federation of Pakistan through Secretary & 3 others (2003 PTD 2834), M/s Pearl Continental Hotel, Lahore through Director Finance & another Vs. Customs Excise and Sales Tax Appellate Tribunal, Lahore and another (2005 PTD 1368) and Sunrise Bottling Company (Pvt.) Ltd. through Chief Executive Vs. Federation of Pakistan and 4 others (2006 PTD 535).

4. Following the rule of consistency, and taking into consideration the law laid down by superior Court in the cases cited supra, I am inclined to dispose of this petition without the necessity of issuing notices to the Respondents with the directions to Commissioner Inland

Revenue (Appeals-I), LTU, Islamabad, (the Respondent No. 2) to decide the appeal of the Petitioner expeditiously and preferably within a period of 60 days from the date of this order. Till the decision in the petitioner's appeal, the Respondent No. 1 is directed to refrain from adopting the coercive measures for the recovery of the disputed demand created vide impugned order dated 29.01.2020, for the tax year 2017-18. The Petitioner is also directed to appear and argue the case before Respondent No. 2, without seeking any adjournment as and when the appeal is fixed for hearing.

5. The Petition is disposed of in above terms.

(LUBNA SALEEM PERVEZ)
JUDGE