

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

W.P.No.4116/2019

M/s Murree Brewery Company Limited

**Versus**

Additional Commissioner Inland 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.
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28.11.2019	<b>Mr. Muhammad Mohsin Nazir, Advocate for the petitioner</b>	
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Through the instant writ petition, the petitioner, M/s Murree Brewery Company Limited, seeks a restraint against the respondents from recovering disputed tax liability until the decision on the petitioner's appeal which is pending adjudication before respondent No.2 (Commissioner Inland Revenue).

2. The record shows that vide order dated 30.06.2019, a demand for an amount of Rs.3,002,327,675/- was raised against the petitioner by respondent No.1 (Additional Commissioner Inland Revenue) 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 in an appeal before respondent No.2. Along with the said appeal, the petitioner also filed an application for grant of stay. Respondent No.2 vide order dated 11.09.2019 granted stay for a period of thirty days. Subsequently, the petitioner filed an application for extension in stay. Respondent No.2 vide order dated 14.10.2019 granted extension in stay for further thirty days, which was expired on 10.11.2019. After the expiry of the stay, the petitioner filed an appeal along with stay application before respondent No.3 (Appellate Tribunal Inland Revenue). Respondent No.3 vide order dated

20.11.2019 dismissed the petitioner's appeal as well as 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.2 but the petitioner has an apprehension that respondent department may initiate recovery proceedings due to rejection of stay by respondent No.3; that fearing the adoption of coercive measures during the pendency of the petitioner's appeal before respondent No.2, 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.2 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 for seven days after the decision of the petitioner's said appeal by respondent No.2 in the event, the same is dismissed. The petitioner is directed to appear and argue its case before respondent No.2

without seeking any adjournment as and when its appeal is fixed for hearing.

5. Disposed of in the above terms.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

*Qamar Khan\**