

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.380/2020

M/s AAR & Co.

Versus

Deputy 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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07.02.2020	Ch. Naeem ul Haq, Advocate for the petitioner
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Through the instant writ petition, the petitioner, M/s AAR & Co., seeks a restraint against the respondents from recovering the impugned tax liability until the decision on the petitioner's appeal, which is pending adjudication before respondent No.4 (Appellate Tribunal Inland Revenue).

2. The record shows that vide Assessment Order dated 07.11.2019, a demand for an amount of Rs.28,392,691/- was raised against the petitioner by respondent No.1 (Deputy Commissioner Inland Revenue) in terms of Section 161(1) of the Income Tax Ordinance, 2001 ("the 2001 Ordinance") pertaining to the tax year 2016. On 31.10.2019, a notice of demand was issued to the petitioner requiring it to pay the above-said amount within a period of thirty days. The petitioner challenged the said order dated 07.11.2019 in an appeal before respondent No.2 (Commissioner Inland Revenue (Appeals-I) Islamabad) on 29.11.2019. Along with the said appeal, the petitioner also filed an application for grant of stay against the recovery of disputed tax liability. Respondent No.2 vide order dated 20.01.2020 rejected the petitioner's stay application. The petitioner challenged the said order dated 20.01.2020 in an appeal before

respondent No.4. Along with the said appeal, the petitioner also filed an application for grant of stay. Both the said appeal along with stay application are still pending adjudication before the said respondent.

3. Learned counsel for the petitioner submits that the petitioner has already assailed the impugned notice of demand dated 31.10.2019 as well as order dated 20.01.2020 before respondent No.4 by filing an appeal and application for grant of stay; that the said appeal and stay application have not yet been fixed for hearing before the said Tribunal due to its non-availability since 30.01.2020; that the petitioner has an apprehension that the respondent may initiate recovery proceedings on the basis of recovery notice dated 08.01.2020; that fearing the adoption of coercive measures during the pendency of the petitioner's appeal before respondent No.4, 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. Learned counsel further submits that this petition may be disposed of with the observation that until the petitioner's appeal and stay application are not taken-up for hearing by respondent No.4, the respondent department be restrained from adopting coercive measures for the recovery of the disputed tax liability.

5. Consistent with the order dated 07.04.2016 passed by this Court in W.P.No.1259/2016, and since the learned Appellate Tribunal Inland Revenue is presently non-functional, I am inclined

to dispose of this petition, without the necessity of issuing notice to the respondents, with the direction to the respondent department to refrain from adopting coercive measures for the recovery of the disputed tax liability until the decision on the petitioner's appeal by respondent No.4. The petitioner is also directed to appear and argue its case before respondent No.4 without seeking any adjournment as and when the Appellate Tribunal Inland Revenue is functional where its appeal/stay application is fixed for hearing.

6. Disposed of in the above terms.

Qamar Khan*

**(MIANGUL HASSAN AURANGZEB)
JUDGE**