

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.2371/2019
M/s Central Tobacco Company (Pvt.) Ltd.
Versus
Appellate Tribunal 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.
	17.10.2019	Ch. Muhammad Nawaz, Advocate for the petitioner Dr. G.M. Chaudhary, Advocate for the respondents.

Through the instant writ petition, the petitioner, M/s Central Tobacco Company (Pvt.) Ltd., seeks a direction to the respondents to release the goods in question pursuant to the order dated 18.02.2019 passed by the Appellate Tribunal Inland Revenue ("A.T.I.R."), whereby the appeal filed by the Commissioner Inland Revenue, Corporate Zone, Regional Tax Office, Rawalpindi (respondent No.2) against the order-in-appeal dated 30.05.2018 passed by the Commissioner Inland Revenue (Appeals-III), Islamabad, was dismissed. Vide the said order dated 30.05.2018, the petitioner's appeal against the order-in-original dated 26.03.2018 passed by the Assistant Commissioner (Inland Revenue), Regional Tax Office, Rawalpindi, was allowed. The said order-in-original was passed pursuant to the show cause notice dated 18.04.2017 issued by the Deputy Commissioner Inland Revenue (Corporate Audit), Regional Tax Office, Rawalpindi.

2. A team of officials had visited the petitioner's premises at Chak Bazeed Chowk, Rawalpindi Road, Chakwal and seized a large quantity of unmanufactured tobacco from the petitioner's godowns. In the above-said show cause notice dated 18.04.2017, it was alleged that

the petitioner was a consecutive non filer of sales tax and federal excise returns as well as income tax returns since a period of five years.

3. Vide order-in-original dated 26.03.2018, the petitioner was ordered to pay federal excise duty amounting to Rs.442,533,273/- and sales tax amounting to Rs.129,839,672/-. The petitioner's appeal against the said order-in-original was allowed by the Commissioner Inland Revenue (Appeals-III), Islamabad, vide order dated 30.05.2018. The appeal filed by respondent No.2 before the A.T.I.R., Islamabad against the said order dated 30.05.2018 was dismissed, vide order dated 18.02.2019. Apparently, the department has filed sales tax reference No.9/2019 before the Hon'ble Lahore High Court, Rawalpindi Bench against the said order dated 18.02.2019. Till date, the Hon'ble Lahore High Court has not passed any interim order in favour of the department. It was in these circumstances that the instant writ petition has been filed seeking *inter alia* a direction to the respondents to release the seized goods/tobacco. The petitioner has also sought a declaration that the show cause notice dated 18.04.2017 was illegal.

4. Since the department has already filed sales tax reference No.9/2019 before the Hon'ble Lahore High Court, Rawalpindi Bench against the said order dated 18.02.2019, the petitioner is at liberty to file a petition before the said Court for the release of its seized goods/tobacco. True, the petitioner is seeking the implementation of the order passed by the A.T.I.R., Islamabad but it may be noted that on 04.07.2019, the petitioner had filed an application before the Chief Commissioner Inland Revenue, Regional Tax Office, Rawalpindi for the release of the seized

goods/tobacco. It is an admitted position that for the release of the seized goods/tobacco, a direction will be required to be issued to the Commissioner Inland Revenue, Regional Tax office, Rawalpindi which is beyond the territorial jurisdiction of this Court.

5. In view of the above, the instant petition is dismissed as not maintainable. The petitioner is at liberty to approach the Court of competent jurisdiction for the release of its seized goods/tobacco.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*