

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

W.P. No.1841-2013

M/s Lafarge Pakistan Cement Ltd.

Vs.

Commissioner of Inland Revenue, LTU, Islamabad & Another

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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21.09.2021	Barrister Farrukh Jawad Panni, Advocate for petitioner. Mr. Saeed Ahmad Zaidi, Advocate for FBR.
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Through the instant petition, the petitioner has challenged show-cause notice dated 19.04.2013 issued by the Deputy Commission Inland Revenue, Audit-IX, Large Tax Payers Unit, Islamabad.

2. The facts, leading to filing of instant petition, are that petitioner is conducting business of manufacturing of cement; show cause notice dated 19.04.2013 under section 14(1) of the Federal Excise Act, 2005 and section 11(2) of Sales Tax Act, 1990 was issued and under the same, it is alleged that standard composition formula was introduced according to which for production of cement, 95% clinker and 5% gypsum is used; according to quantity of gypsum used, it

shows that production of cement was more than that was declared.

3. Learned counsel for the petitioner *inter alia* contended that production of gypsum is alien to the provision of law and no sample was obtained or actual record was taken by the respondents before issuance of notice.

4. Learned counsel for the respondents submitted that matter stands settled inasmuch as it has been decided on the level of the department, whereas tax references are pending before this Court.

5. Arguments advanced by learned counsel for the parties have been heard and the documents, placed on record, examined with their able assistance.

6. In the instant petition, the petitioner has challenged show cause notice. It is trite law that mere issuance of show cause notice is inconsequential inasmuch as it is not an adverse order and only is issued to set the wheels in motion. It is also a settled principle that a petition, under Article 199 of the Constitution against a show cause notice, is not maintainable unless same is without

jurisdiction or suffers from patent illegality. Nothing was brought on record by the petitioner to indicate such infirmity, whereas writ petition (W.P. No.1949-2013) under similar circumstances challenging the show cause notice issued on the same basis was withdrawn, as petitioner had availed remedy before alternate fora provided under the tax laws.

7. In view of referred position of facts and law, instant petition is not competent and is accordingly dismissed.

**(AAMER FAROOQ)**  
**JUDGE**