

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.3600/2021

China Mobile Pakistan Limited

Versus

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.
01.	08.10.2021	Mr. Mansoor Usman Awan and Ms. Zainab Janjua, Advocates for the petitioner.

Through the instant petition, the petitioner has challenged notice dated 14.09.2021 as well as summon issued by the respondents dated 01.10.2021.

2. Learned counsel for the petitioner, *inter alia*, contended that under the Finance Act, 2021, excise duty was levied on the telephone calls exceeding five minutes and the respondents pursuant thereto issued impugned notice and summon. It was contended that under entry at Sr. No.3 to the First Schedule, Table-II excise duty on telecommunication services are to be levied under the Federal Excise Act, 2005 and excise duty on telecommunications is not to be levied where the provincial law provides sale tax on services. It was contended that Entry at Sr. No.6A is not independent as at Sr. No.6, hence levy of tax is not tenable. It was further contended that the Parliament was not competent to legislate byway of imposition of Federal Excise Duty on calls exceeding five minutes in light of entry Sr.No.49 in the Fourth Schedule of the Constitution of the Islamic Republic of Pakistan, 1973.

3. Notice to the respondents, who shall file para-wise comments/reply so as to reach this Court within a fortnight. Since vires of section 8(6)(b)(iii) of the Finance Act, 2021 and entry at item No.6A of Table-II to the First Schedule of the Federal Excise Act, 2005 have also challenged, hence notice under order 27-A CPC shall also be issued to the Attorney General for Pakistan.

4. Re-list on 14.10.2021.

C.M. No.01/2021

The exemption sought for is allowed subject to all just and legal exceptions.

C.M. No.02/2021

Notice. Meanwhile, the respondents may proceed with the matter, however, no coercive measures shall be adopted against the petitioner.

(AAMER FAROOQ)
JUDGE

M. Shah/*