

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

**W.P. No.2318 of 2020**  
**MOL Pakistan Oil and Gas Company**  
**Versus**  
**The Federal Board of Revenue through its Chairman and others**

<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>
	<b>26.08.2020</b>	<b>Barrister Shehryar Kasuri, for the petitioner.</b>

Through the instant writ petition, the petitioner, MOL Pakistan Oil and Gas Company, seeks issuance of a writ declaring the impugned order dated 25.03.2020 and demand notice dated 20.06.2020 passed by respondent No.4 (Additional Commissioner Inland Revenue) and Assistant / Deputy Commissioner Inland Revenue, respectively, to be illegal, without lawful authority and of no legal effect. Furthermore, the petitioner 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.3 (Commissioner Inland Revenue (Appeals-II)) for seven days after the decision on the petitioner's appeal by the said respondent.

2. The record shows that vide amended assessment order dated 25.03.2020, a demand for an amount of Rs.909,147,728/- was raised against the petitioner by respondent No.4 under Section 122(5A) of the Income Tax Ordinance, 2001 ("the 2001 Ordinance") pertaining to the Tax Year 2019. The petitioner challenged the said order dated 25.03.2020 in an appeal before respondent No.3 on 17.04.2020. Along with the said appeal, the petitioner also filed an application for grant of stay. Respondent No.3, vide its order dated 22.04.2020,

rejected the said application. Against the said order dated 22.04.2020, the petitioner filed an application for grant of stay before respondent No.6 (Appellate Tribunal Inland Revenue). Respondent No.6, vide order dated 27.04.2020, had declined to grant stay. Subsequently, the petitioner, on 24.06.2020, filed stay application against the recovery of the impugned tax liability. Respondent No.3, vide letter dated 24.06.2020, had declined to entertain the said application being unsupported by any provision of law. Thereafter, the petitioner filed an appeal along with stay application before respondent No.6 challenging the said order dated 24.06.2020. Respondent No.6, vide order dated 01.07.2020, disposed of the said appeal with the direction to respondent No.3 to decide the appeal within a period of 45 days, and granted stay for a period of sixty days or till the decision of the appeal by respondent No.3. Arguments in the petitioner's appeal before respondent No.3 have been addressed on 20.08.2020 whereas the order thereon is still awaited.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal is still pending adjudication before respondent No.3, the petitioner has an apprehension that the respondent department may initiate recovery proceedings on the basis of recovery notice dated 20.06.2020; that fearing the adoption of coercive measures during the pendency of the petitioner's appeal before respondent No.3, 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 with the observation that until the decision of 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.3 in the event the same is dismissed.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)  
JUDGE

Ahtesham\*