

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.327/2019

M/s Forte Associates

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.
	20.12.2022	Mr. Ghulam Qasim Bhatti and Mr. Tahir Nazir, Advocates for the petitioner. Syed Ishfaq Hussain Naqvi, Ms. Hajra Shah and Ms. Sadaf Noman, Advocates for the respondents. Mr. Azmat Bashir Tarar, Assistant Attorney General.

AAMER FAROOQ, CJ. –The present order shall

decide the instant petition as well as Writ Petition
No.345/2019, as common questions of law are involved.

2. The petitioner had challenged recovery notice
issued by respondents. During the course of proceedings
before the Appellate Tribunal Inland Revenue, in spite of
stay order, recovery was effected, however, during the
subsistence of the petitions, appeals pending before the
Appellate Tribunal Inland Revenue have been accepted
and the matter was remanded to the Assessing Officer.

3. Learned counsel for the petitioner contended that
recovery was effected while the appeals were pending
before the Appellate Tribunal Inland Revenue and in
presence of injunctive order, the same merits setting-
aside and amount be refunded. Reference was made to
Z.N. Exports (Pvt) Ltd. versus Collector of Sales Tax (2003
PTD 1746) and Dowell Schlumberger (Western) S.A.

versus Federation of Pakistan and others (2016 PTD 1702).

4. Learned counsel for the respondents contended that the liability of the petitioner is still to be determined, hence question of refund does not arise.

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

6. At present, there is no calculated tax liability against the petitioner as the order passed has been set-aside and the matter is sent back to the Assessing Officer. However, amount has been recovered while the matter was before the Appellate Authority and apparently, the same was done during the subsistence of the injunctive order by the Appellate Tribunal Inland Revenue. In this view of the matter, the recovery effected needs to be refunded to the petitioner.

7. In view of the foregoing, the instant petition is **disposed of** with direction to respondent No.7 to entertain the request of refund of the petitioner while deciding the matter and do the needful in this behalf expeditiously preferably within one month from the date of receipt of this Order.

(CHIEF JUSTICE)