

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P.NO. 873/2020

M/S CMPAK LIMITED.

PETITIONER.

VS

FEDERATION OF PAKISTAN THROUGH CHAIRMAN AND OTHERS.

RESPONDENTS.

SERIAL NO. OF ORDER OF PROCEEDINGS	DATE OR ORDER OF PROCEEDINGS	Order with signatures of judge, and that of parties or counsel, where necessary.
1	2	3

(1)	16.03.2020.	Mr. Usman Shaukat and Malik Sardar Khan Awan, Advocates for Petitioner.
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The Petitioner in the instant Petition has impugned notice u/s 138 (1) of the Income Tax ordinance, 2001, dated 04.03.2020, for recovery of demand of Rs. 9,555,623/- created vide order passed under section 161 / 205 of the Income Tax ordinance, 2001, dated 03.02.2020, for the tax year 2018. Learned counsel for the petitioner submitted that the appeal against the said order is pending before the Commissioner Inland Revenue Appeals-I, thus the recovery of impugned demand is not justified.

2. Learned Counsel apprehends recovery of the disputed amount by the Respondents through impugned notice issued under section 138(1), during the pendency of appeal before the Commissioner Appeals through coercive measures, hence, prayed for interim relief while relying on the case law reported as M/s Pak Saudi Fertilizers Ltd. Vs. Federation of Pakistan 7 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), Brothers Textile Mills Ltd. Vs. Federation of Pakistan through Secretary & 3 others (2003 PTD 2834), M/s Pearl Continental Hotel, Lahore through Director Finance & another Vs. Customs Excise and Sales Tax Appellate Tribunal, Lahore and another (2005 PTD 1368) and Sunrise Bottling Company (Pvt.) Ltd. through Chief Executive Vs. Federation of Pakistan and 4 others (2006 PTD 535).

3. Following the rule of consistency, and taking into consideration the law laid down by superior Court in the cases cited supra, I am inclined to dispose of this petition without the necessity of issuing notices to the Respondents with the directions to Commissioner Inland Revenue (Appeals-I), LTU, Islamabad, (the Respondent No. 3) to decide the appeal of the Petitioner expeditiously and preferably within a period of 60 days from the date of this order. Till the decision in the petitioner's appeal, the Respondent Department is directed to refrain from adopting the coercive measures for the recovery of the disputed demand created, vide order passed u/s 161/205 dated 03.02.2020. The Petitioner is also directed to appear and argue the case before Respondent No. 3, without seeking any adjournment as and when the appeal is fixed for hearing.

4. The Petition is disposed of in above terms.

(LUBNA SALEEM PERVEZ)
JUDGE