

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.1488 of 2021
Pak Telecommunication Company Ltd.
Versus

The Learned Appellate Tribunal Inland Revenue and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	22.04.2021	Syed Hasnain Ibrahim Kazmi, Advocate for the petitioner.

Through the instant writ petition, the petitioner, Pak Telecommunication Company Ltd., seeks a restraint against the respondent department from recovering the impugned tax liability until the decision on the petitioner's appeal, which is pending adjudication before respondent No.2 (Commissioner Inland Revenue (Appeals-I)).

2. The record shows that vide Order dated 19.03.2021, a demand for an amount of Rs.7,125,936,501/- was raised against the petitioner by respondent No.3 (Additional Commissioner (Audit-II) under Section 122(5A) of the Income Tax Ordinance, 2001 (“the 2001 Ordinance”) for the Tax Period 01.01.2019 to 31.12.2019. The petitioner challenged the said order dated 19.03.2021 in an appeal before respondent No.2 on 08.04.2021. Along with the said appeal, the petitioner also filed an application for grant of stay. Respondent No.2, vide its order dated 13.04.2021, rejected the stay application, whereas the main appeal is still pending adjudication before the said respondent. Subsequently, on 15.04.2021, the petitioner filed an appeal along with stay application before respondent No.1 (Appellate Tribunal Inland Revenue). Respondent No.1, vide its order dated 19.04.2021, dismissed the said appeal and stay application.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal is still pending adjudication before respondent No.2, the petitioner has an apprehension that the respondent department may initiate recovery proceedings on the basis of the impugned recovery notice dated 19.03.2021; that fearing the adoption of coercive measures during the pendency of the petitioner's appeal before respondent No.2, 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 by respondent No.2, the respondent department is directed to restrain from adopting coercive measures for the recovery of the disputed tax liability. The petitioner is directed to appear and argue its case before respondent No.2 without seeking any adjournment as and when its appeal is fixed for hearing.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE