

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 2235 of 2020

M/s Pakistan Mobile Communication Limited
VS

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.
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(1) 19.08.2020. Mr. Usman Shaukat, Advocate for Petitioner.

The Petitioner in the instant Petition has impugned notice u/s 138 (1) of the Income Tax Ordinance, 2001, dated 05.08.2020, for recovery of demand of Rs. 7,,010,282,957/- created vide order passed under section 122(9) read with section 122(5A)/124 of the Income Tax Ordinance, 2001, dated 29.06.2020, for the tax year 2015. Learned counsel for the petitioner submitted that the appeal against the said order is pending before Respondent No. 4 i.e. Commissioner Inland Revenue (Appeals-I), thus the recovery of impugned demand is not justified.

2. Learned Counsel further submitted that application for stay of disputed tax demand has been filed before Respondent No. 4 which has not yet fixed for hearing, hence the petitioner apprehends recovery of the disputed amount by the Respondents created 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. 4) 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 under section 122(9) read with section 122(5A)/124 of the Income Tax Ordinance, 2001, dated 29.06.2020, for the tax year 2015. The Petitioner is also directed to appear and argue the case before Respondent No. 4, 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