

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.1969 of 2021
M/s Zeeruk International (Pvt.) Ltd.
Versus
Federation of Pakistan and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	07.06.2021	Mr. Ghulam Qasim Bhatti, Advocate for the petitioner.

Through this order, I propose to decide writ petitions No.1969, 1970 and 1971 of 2021 since they entail common questions of law and facts.

2. Through the said petitions, the petitioner, M/s Zeeruk International (Pvt.) Ltd., impugn undated show cause notices issued by respondent No.3 (the Additional Commissioner (IR), Audit - I, Range - I, Large Taxpayer Office, Islamabad) under Section 122(5A) read with Section 122(9) of the Income Tax Ordinance, 2001 (“the 2001 Ordinance”) for the tax years 2015, 2017 and 2018 on the ground that the returns filed by the petitioner were erroneous and prejudicial to the interest of revenue.

3. The petitioner has already submitted replies to the said show cause notices but till date no order has been passed.

4. Learned counsel for the petitioner submitted that the preconditions for invoking the provisions of 122(5A) of the 2001 Ordinance had not been satisfied; that the said show cause notices could not have been issued until it was determined that the returns filed by the petitioner for the said tax years were erroneous or prejudicial to the interest of revenue.

5. The petitioner has already taken objections to the show cause notices, in the replies that have already been submitted. It is expected that the said objections would be taken into consideration

by respondent No.3 before proceeding further in the matter.

6. Till date, no adverse action has been taken against the petitioner. It is well settled that mere issuance of a show cause notice does not amount to an adverse action. Reference in this regard may be made to the cases of Mir Nabi Bakhsh Khan Vs. Branch Manager, National Bank of Pakistan, Jhatpat and others (2000 SCMR 1017) and Zaver Petroleum Corporation Limited Vs. Federal Board of Revenue (2016 PTD 2332). It is also well settled that a writ petition against the mere issuance of a show cause notice is not maintainable unless the same is wholly without jurisdiction and in violation of a Statute. Reference in this regard may be made to the cases of Al-Ahram Builders (Pvt.) Ltd. Vs. Income Tax Appellate Tribunal (1993 SCMR 29), Pakistan Tobacco Company Limited Vs. Government of Pakistan (1993 SCMR 493), Deputy Commissioner of Income Tax/Wealth Tax, Faisalabad Vs. Punjab Beverage Company (Pvt.) Ltd. (2007 PTD 1347), Irum Shah Shahadi Vs. Principal School of Nursing, Mayo Hospital, Lahore (2017 PLC (C.S.) 943) and Apna T.V. Channel (Private) Limited Vs. Pakistan Electronic Media Regulatory Authority (2017 CLC 199). In the case at hand, there is no exceptional circumstance which would warrant interference with the impugned show cause notices. In the case of Muhammad Aslam Vs. Federation of Pakistan and others (2017 PTD 803), it has been held *inter alia* that apprehension that under the garb of a show cause notice, coercive action would be taken against the petitioner was not sufficient for the High Court to exercise its Constitutional jurisdiction.

7. In the case of Naweed Akhtar Cheema Vs. Chairperson, TEVETA (2011 PLC (C.S.) 803), it has been held as follows:-

“8. Issuance of show-cause notice does not mean that the case will be invariably decided against the petitioner and there is always a possibility that the same may be decided in favour of the petitioner. Laying challenge to a show-cause notice is therefore no different than filing a petition on the basis of an apprehension or a speculation. Such a petition is premature and not ripe for adjudication. Just as a case can be brought too late, and thereby be moot, it can be brought too early, and not yet be ripe for adjudication...until the controversy has become concrete and focused, it is difficult for the Court to evaluate the practical merits of the position of each party. The basic rationale behind the ripeness doctrine is to prevent the courts through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties.”

8. Learned counsel for the petitioner could not point out any provision of the law that had been violated by respondent No.3 by issuing the impugned show cause notices. He could also not explain as to how the impugned notices were without lawful authority or jurisdiction. The petitioner has already agitated its objections in the replies to the show cause notices, which are expected to be taken into consideration by respondent No.3 before passing an order unless the same has already been passed.

9. In view of the above, these petitions are dismissed in limine.

(MIANGUL HASSAN AURANGZEB)
JUDGE