

Form No: HCJD/C-121  
ORDER SHEET  
IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No.1123/2019

M/s Fauji Fertilizers Bin Qasim Limited

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.
02.	29-03-2019	Mr Ayyaz Shaukat, Malik Sardar Khan Awan, Advocates for the petitioner. Mr. Babar Bila, Advocate for respondents. Syed Muhammad Tayyab, DAG.

**C.M.No.01 of 2019**

Today the instant C.M is fixed for hearing.  
However, on the request of the learned counsel for the petitioner main petition is taken up for hearing.

**Main Petition**

The petitioner Company has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 assailing orders, dated 04-03-2019 and 11.03.2019, passed by the learned Commissioner

Inland Revenue (Appeals-I) and the learned Appellate Tribunal Inland Revenue.

2. The facts, in brief, are that the petitioner Company is registered under the Sales Tax Act, 1990. The Deputy Commissioner Inland Revenue served a show cause notice and after completing the proceedings passed Order-In-Original No.08/51 of 2019. It was, inter alia, held that the petitioner Company had claimed inadmissible transactions as input in its sales tax return for the period from May, 2014 to June, 2014. The petitioner Company was, therefore, directed to pay the adjudged amount of Rs.17.170 million. The petitioner Company preferred an appeal, which is stated to be pending before the learned Commissioner Inland Revenue (Appeals). Alongwith the appeal application for restraining the Department from recovering the amount was also filed. The learned Commissioner (Appeals) dismissed the appeal vide order, dated 04.03.2019. The petitioner Company filed an appeal before the learned Tribunal, which was also dismissed vide the impugned order, dated 11.03.2019.

3. The learned counsel for the petitioner Company has been heard at length. He has argued that the amount claimed as input tax by the petitioner Company related to invoices regarding which output tax had been subsequently paid. He has contended that the learned Commissioner (Appeals) and the learned Tribunal failed to take into consideration the fact that the output tax is paid by the suppliers at a later date and, therefore, without allowing the opportunity to reconcile the figures the application seeking injunction could not have been dismissed.

4. The learned counsel has been heard and record perused with his able assistance.

5. It is obvious from the record that sufficient opportunities were granted to the petitioner Company to reconcile the discrepancies pointed out by the adjudicating Authority. It is the case of the petitioner Company that the input tax was claimed in relation to invoices issued by a person who had subsequently paid the output tax and, therefore, the adjustment made was not inadmissible. The petitioner Company had an opportunity to satisfy the learned Commissioner (Appeals) and the learned

Tribunal that the output tax had been paid during the period when the input was claimed. Both the forums were satisfied that sufficient record could not be placed on record to make out a prima facie case. The learned Counsel, despite his able assistance, was not able to show that interference was required while exercising jurisdiction under Article 199 of the Constitution. The petitioner Company would also not suffer irreparable loss because it could opt to file a refund application. However, at this stage no case is made out for interference and the concurrent findings do not suffer from misreading and non-reading of the record nor the ground of jurisdictional error has been raised.

6. For what has been discussed above, the instant petition is without merit and, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Asif Mughal/\*