

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.2683/2019
Pakistan Mobile Communications Limited
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.
	22.07.2019	Mr. Sikander Sukhera, Advocate for the petitioner

Through the instant writ petition, the petitioner, Pakistan Mobile Communications Limited, seeks issuance of a writ directing the respondent department to restrain from adopting coercive measures for the recovery of the disputed tax liability raised through notice of demand dated 22.06.2019 for seven days after the decision of the petitioner's appeal by respondent No.2 (Commissioner Inland Revenue) in the event the same is dismissed by the said respondent so as to prefer an appeal before the Appellate Tribunal Inland Revenue.

2. The record shows that vide Assessment Order dated 22.06.2019, a demand for an amount of Rs.22,032,622,231/- was raised against the petitioner by respondent No.4 in terms of Section 122(5A) of the Income Tax Ordinance, 2001, ("the 2001 Ordinance") pertaining to the tax year 2018. On the same very day, a notice of demand was issued to the petitioner requiring it pay the above-said amount within a period of thirty days. The petitioner challenged the said order and notice of demand dated 22.06.2019 in an appeal before respondent No.2 (Commissioner Inland Revenue (Appeals-I) Islamabad) on 16.07.2019. Along with the said appeal, the petitioner also filed an

application for grant of stay against the recovery of disputed tax liability. The petitioner's appeal along with stay application is still pending adjudication before the said respondent.

3. Learned counsel for the petitioner submits that the petitioner has already assailed the impugned order and notice of demand dated 22.06.2019, before respondent No.2 by filing an appeal and application for grant of stay; that the said appeal and stay application have not yet been fixed for hearing before the said learned Bench due to its non-availability; 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. Learned counsel further submits that this petition may be disposed of with the observation that until the petitioner's appeal and stay application are not taken-up for hearing by respondent No.2, the respondent department be restrained from adopting coercive measures on the basis of impugned order and notice of demand dated 22.06.2019.

5. Learned counsel for the petitioner has placed on record copy of order dated 07.04.2016, passed in writ petition No.1259/2016, whereby this Court, in similar circumstances, disposed of the said writ petition directing the Commissioner Inland Revenue (Appeals-I), Islamabad to decide the appeal within a period of sixty days and till then, no coercive measures shall be taken against the

writ petitioner for the recovery of the disputed tax liability.

6. Consistent with the order dated 07.04.2016, passed in W.P.No.1259/2016, I am inclined to dispose of this petition with direction to respondent No.2 (Commissioner Inland Revenue Appeals-I), Islamabad to decide the petitioner's appeal within a period of 60 days and till then, no coercive measures shall be taken against the petitioner for the recovery of the disputed tax liability in accordance with the impugned order and notice of demand dated 22.06.2019. The respondents are further directed not to adopt coercive measures for seven days after the decision of the stay application by respondent No.2 in the event the petitioner's said application is dismissed. The petitioner is directed to appear and argue its case without seeking any adjournment as and when its application / appeal is fixed for hearing before respondent No.2.

7. Disposed of in the above terms.


Qamar Khan*

(MIANGUL HASSAN AURANGZEB)
JUDGE