

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No. 3562 of 2021

MOL Pakistan Oil & Gas B.V.

*Vs*

Federal Board of Revenue, 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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01)	<u>06-10-2021.</u>	Mr Abuzar Salman Khan Niazi Advocate, for the petitioner.
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**ATHAR MINALLAH, C.J.-** The petitioner

company through this petition has assailed the notices whereby the latter was informed regarding its selection for the purposes of audit. The petitioner company is also aggrieved because pursuant to completion of the audit, show cause notice, dated 31.08.2021, has been issued.

2. The learned counsel for the petitioner has been heard at length. The latter, despite his able assistance, was not able to persuade this Court that the show cause notice, dated 31.08.2021 has been issued by an authority not vested with jurisdiction. The learned counsel has stressed that the procedure adopted by the respondents was in violation of the scheme prescribed under section 25 of the Sales Tax Act, 1990 [hereinafter referred to as the "**Act of 1990**"]. The learned

counsel has also placed reliance on the judgment, dated 14.09.2021, rendered by the learned Lahore High Court, in W.P. No. 25793/2021, titled "*Hyundai Nishat Motor (Pvt.) Limited v. The Federal Board of Revenue*". The learned counsel has argued that without summoning the record and application of mind the Commissioner was not vested with jurisdiction to have ordered the audit.

3. Admittedly, the petitioner company has been served with a show cause notice. It is settled law that a show cause notice cannot be treated as an adverse order. Whether or not the audit was ordered and conducted after complying with the statutory requirements provided under section 25 of the Act of 1990 can be taken as one of the grounds before the authority which has issued the show cause notice. In case such a ground is raised then this Court expects that the competent authority will take it into consideration while adjudicating the show cause notice. A plain reading of the show cause notice, dated 31.08.2021, shows that the alleged acts and omissions have been described therein in considerable detail. Since the show cause notice has been issued, therefore, the law has to take its

own course. There is no reason for this Court to assume that the adjudicating authority would exclude from its consideration all the grounds taken before it on behalf of the petitioner company.

4. For the foregoing reasons this Court is not inclined to exercise its jurisdiction vested under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 because the show cause notice cannot be treated as an adverse order.

5. The petition is, therefore, accordingly **dismissed in limine.**

(CHIEF JUSTICE)