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**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**W.P. No.37 of 2019**  
**Bio-Labs (Private) Limited**  
**Versus.**  
**Federation of Pakistan through Chairman, Federal Board of Revenue and**  
**others**

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>08.01.2019</b>	<b>Hafiz Muhammad Idris and Mr. Muhammad Mohsin Nazir, Advocates for the petitioner.</b>

Through the instant writ petition, the petitioner, Bio-Labs (Private) Limited, seeks a direction to respondent No.4 (Assistant Commissioner Inland Revenue) to withdraw recovery notice under Section 138(1) of the Income Tax Ordinance, 2001 ("the 2001 Ordinance"). Furthermore, the petitioner seeks a restraint against respondent No.4 from recovering disputed tax liability until the decision on the petitioner's appeal, which is pending adjudication before respondent No.2 (Appellate Tribunal Inland Revenue).

2. The record shows that vide Order dated 31.10.2018, a demand for an amount of Rs.5,357,267/- was raised against the petitioner by respondent No.3 (Assistant/Deputy Commissioner Inland Revenue) in terms of Section 122(1) of the 2001 Ordinance pertaining to the Tax Year 2016. The petitioner challenged the said Order by filing an appeal before respondent No.5 (Commissioner Inland Revenue (Appeals-III)). Respondent No.5, vide its order dated 24.12.2018, rejected the said appeal, and as a result the order passed by the Adjudicating Officer was confirmed. Against the said order, the petitioner preferred an appeal along with stay application before respondent No.2. Respondent No.2, vide its

order dated 03.01.2019, rejected the said stay application, whereas the main appeal is still pending adjudication before respondent No.2.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal is still pending adjudication before respondent No.2, but the respondent department has started recovery proceedings by issuing recovery notice dated 24.12.2018 for the recovery of the disputed tax liability; 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. Consistent with the order dated 18.04.2016, passed by this Court in W.P. No.1367/2016 and by following the law laid down in the cases of M/s Pak Saudi Fertilizers Ltd Vs. Federation of Pakistan & 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) and Mehram Ali Vs. Federation of Pakistan etc (PLD 1988 SC 1445), I am inclined to dispose of this petition, without the necessity of issuing notice to the respondents, with the direction to respondent No.2 to decide the petitioner's appeal expeditiously, and preferably within a period of 60 days from today. Until the decision on the petitioner's appeal, the respondent department is directed to restrain from adopting coercive measures for the recovery of the disputed tax liability. The petitioner is also directed to appear and argue its case before

respondent No.2 without seeking any adjournment as and when its appeal is fixed for hearing.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)  
JUDGE

Ahtesham\*