

ORDER SHEET  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
(JUDICIAL DEPARTMENT)

**W.P no.35/ 2022**

Fairdeal Exchange Company (Private) 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.
------------------------------	----------------------------	---

06.01.2022      Mr. Faisal Rasheed Ghouri, Advocate.

Learned counsel for the petitioner contends that the actions of issuing impugned notices under section 177(1) of the Income Tax Ordinance 2001 simultaneously for multiple tax years from 2016 to 2020 and embedding the order for conducting the audit in the same notices are contrary to the settled law on the subject whereby, between the communication of the reasons in a section 177(1) notice and proceeding with the audit, there has to be an interim step of affording an opportunity of hearing to the taxpayer followed by a speaking order and only thereafter the audit may be proceeded with. He relies on *Koh-e-Noor Sugar Mills versus Federation of Pakistan, 2018 PTD 821*, wherein the concluding paragraph 41 of the judgment does appear to support his contention. He further contends that simultaneous audit of five years running is against the spirit, if not the letter, of section 177(7) of the Ordinance, which *prima facie* speaks of an audit for a single year, and that to interpret section 177(7) otherwise would render the clarification therein meaningless and relies in this behalf on *The Federal Board of Revenue versus Chen One Stores Limited, 2018 PTD 208*. Further submits that although respondent no.3 has provided an opportunity of hearing, he has not yet passed a speaking order to proceed with the audit but respondent no.4 has nonetheless issued notices for proceeding with the audit and accordingly those notices are not valid in law. Further submits that there is no alternate departmental or statutory remedy available to him in the instant case.

**C.M No.1/ 2022**

Exemption sought for is allowed subject to all just and legal exceptions.

**C.M No.2/ 2022**

Notice. In view of the counsel's submission aforesaid, the notices issued by respondent no.4 to proceed with the audit all dated 25.11.2021 for the tax years 2016 to 2020 shall remain suspended until the next date of hearing.

**(SARDAR EJAZ ISHAQ KHAN)**  
**JUDGE**