

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.4098 of 2019

M/s CMPak Limited

Versus

Federation of Pakistan through Chairman, FBR and others

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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27.11.2019

Mr. Ayyaz Shaukat, Advocate and Malik Sardar Ahmad, Advocates for the petitioner

Through the instant writ petition, the petitioner, M/s CMPak Limited, seeks issuance of a writ directing the respondents to restrain from adopting coercive measures for the recovery of the disputed tax liability for seven days after the decision of the petitioner's appeal by respondent No.3 (Commissioner Inland Revenue) in the event the same is dismissed by the said respondent.

2. The record shows that vide assessment order dated 11.10.2019, a demand for an amount of Rs.24,768,341,094/- was raised against the petitioner, by respondent No.2 (Additional Commissioner Inland Revenue) under Section 122 (5A) of the Income Tax Ordinance, 2001, ("the 2001 Ordinance") pertaining to the tax year 2018. The petitioner challenged the said order dated 11.10.2019 in an appeal before respondent No.3 (Commissioner Inland Revenue). During the pendency of the appeal, respondent No.3 rejected the application for grant of stay vide order dated 29.10.2019. Against the said order, the petitioner filed an appeal before respondent No.4 (Appellate Tribunal Inland Revenue) on 14.11.2019. Along with the said appeal, the petitioner also filed an application for grant of stay. The said appeal along with application for

grant of stay is still pending adjudication before respondent No.4.

3. Learned counsel for the petitioner submits that the petitioner has an apprehension that the respondent department may initiate recovery proceedings on the basis of impugned recovery notice dated 12.11.2019 issued in terms of Section 138(1) of the 2001 Ordinance; that fearing the adoption of coercive measures by the respondent department, 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 the respondent department not to adopt coercive measures for the recovery of the disputed tax liability for seven days after the decision of the petitioner's appeal by respondent No.3 in the event the same is dismissed.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Qamar Khan*