

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

W.P.No.4094 of 2019

Shahid Ali

**Versus**

Federal Board of Revenue through its Chairman and another

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

**Ms. Chand Bibi, Advocate for the petitioner**

Through the instant writ petition, the petitioner, Shahid Ali, impugns the order dated 24.09.2019 issued by the office of the Deputy Director Fisheries, Tarbela and Khanpur Dams at Haripur, Khyber Pakhtunkhwa, whereby he was directed to deposit an amount of Rs.16,44,445/- as advance income tax on the first installment of lease money amounting to Rs.1,64,44,445/- for the year 2019-20.

2. Since the order impugned by the petitioner in the instant petition has been passed by respondent No.2 (Deputy Director Fisheries, Tarbela and Khanpur Dams, Haripur, Khyber Pakhtunkhwa), learned counsel for the petitioner was asked to satisfy this Court as to the maintainability of the instant petition. Learned counsel for the petitioner submitted that since the impugned order has been issued on the basis of the order dated 17.08.2019 issued by respondent No.1 (Federal Board of Revenue), this Court would have the territorial jurisdiction to adjudicate upon the instant petition.

3. In the impugned order dated 24.09.2019, there is no reference to respondent No.1's order dated 17.08.2019. The direction to deposit the advance income tax to the petitioner is on the basis of a lease granted to him by the Directorate General of Fisheries, Government of Khyber

Pakhtunkhwa. Since the order challenged in the instant petition has not been passed within the territorial jurisdiction of this Court, I am of the view that the instant petition is not maintainable. In holding so, reliance is placed on the following case law:-

- (i) In the case of Sandalbar Enterprises (Pvt.) Ltd. Vs. Central Board of Revenue and others (PLD 1997 SC 334), it has been held as follows:

*"We may observe that it has become a common practice to file a writ petition either at Peshawar, or Lahore, or Rawalpindi or Multan etc. to challenge the order of assessment passed at Karachi by adding a ground for impugning the notification under which a particular levy is imposed. This practice is to be depreciated. The Court is to see, what is the dominant object of filing of the writ petition. In the present case, the dominant object was not to pay the regulatory duty assessed by a Customs official at Karachi."*

- (ii) In the case of Messrs Sethi and Sethi Sons Vs. Federation of Pakistan through Secretary, Ministry of Finance (2012 PTD 1869), the petitioner had, through a writ petition, challenged notices issued by the respondent at Karachi. The petitioner had also sought the quashment of an F.I.R. registered at Karachi. The Hon'ble Lahore High Court held that since the dominant object of the Constitutional petition had nexus with Karachi, the writ petition filed before the Hon'ble Lahore High Court was not maintainable. At paragraph 21 of the report, it was held as follows:-

*"21. There is yet another dimension to the above principle. In managing its day-to-day affairs a PERSON, performing functions in connection with the affairs of*

*the Federation may often delegate its powers to its officers. Such delegation ordinarily limits the power of the officer within a specified territorial domain. In such a situation, the all encompassing countrywide territorial jurisdiction of the PERSON is localized to a specific limited territorial jurisdiction. For example, Collector of Customs, an officer of FBR, has specific territorial jurisdiction limited to a particular area, as opposed to the countrywide territorial jurisdiction enjoyed by FBR. Such an officer, therefore, performs a localized function in connection with the affairs of the Federation in a particular area and will be considered to be performing functions within the territorial jurisdiction of the High Court within whose territorial jurisdiction the territorial jurisdiction of the Officer/PERSON falls. In the present case the Deputy Director is an Officer of the Directorate General of the Intelligence and Investigation, FBR at Karachi. As per Order dated 9-12-2010 issued by the FBR, the said Officer enjoys specific territorial jurisdiction confined to Karachi. Similarly a person having territorial jurisdiction limited to Karachi has registered the F.I.R. at Karachi. Therefore, it cannot be said that the Deputy Director or the Directorate is performing functions all over Pakistan as compared to FBR, therefore, only the High Court with corresponding territorial jurisdiction will assume jurisdiction in the matter.*

4. In view of the above, the instant petition is dismissed as not maintainable. There is no need to delve into the merits of the case. The petitioner is at liberty to seek relief, should he so desire, from the Hon'ble Peshawar High Court.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Qamar Khan\*