

Form No: HCJD/C-121

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.2698 of 2019

M/s Zawiya Academy through its Sole Proprietor
Vs.

The Federal Board of Revenue through its Chairman, Islamabad
and 3 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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23.07.2019. Mr. Muhammad Imran Ul Haq,
Advocate for the petitioner.

Through the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed an order dated 07.11.2018 passed by respondent No.3 / department and seeks direction to respondent No.4 for expeditious disposal of its appeal.

2. The facts leading to filing of the present writ petition are that respondent No.3 passed an order dated 07.11.2018 and created demand of Rs.5,730,234/- against tax year 2016 & Rs.4,720,937/- for the tax year 2017. The said order of respondent No.3 was challenged by the

Bottling Company Pvt. Ltd. V. Federation of Pakistan and 4 others" (2006 PTD 535 Lahore), "*Dawood Textile Printing Industries Pvt. Ltd. Vs Federation of Pakistan and 4 others*" (2009 Tax 344 Lahore). Learned counsel further contended that delay in decision of the appeal is not on part of the petitioner, therefore, recovery proceedings be stopped till the final decision of the petitioner's appeal by respondent No.4.

4. The submissions made by the learned counsel for the petitioner have substance. In this behalf the Hon'ble Supreme Court of Pakistan in the case titled "*Mehram Ali and others V. Federation of Pakistan and others*" (PLD 1998 SC 1445) has specifically held that there should be adjudication of grievance by an independent Tribunal and even Lahore High Court in numerous judgments has held that an assessee is entitled to adjudication in respect of his disputed tax liabilities by at least one independent forum outside hierarchy of the respondent department.

5. In view of above, the instant petition

is disposed of with direction to respondent No.4 to decide the appeal of the petitioner within 60 days and till then no coercive measures shall be adopted against it for recovery of disputed tax liability. The petitioner is directed to appear and argue its case before respondent No.4 without seeking any adjournment as and when the appeal is fixed.

(AAMER FAROOQ)
JUDGE

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