

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.1626/2021

Teradata Pakistan (Pvt.) Ltd

Versus

Federation of Pakistan through the Secretary Finance and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	04.05.2021	Mr. Raashid Anwr, advocate for the petitioner via video link.

Through the instant writ petition, the petitioner, Teradata Pakistan (Pvt.) Ltd., seeks a restraint against the respondents from recovering the disputed tax liability until the decision on the petitioner's appeal, which is pending before respondent No.2 (Commissioner Inland Revenue (Appeals)).

2. The record shows that vide order dated 31.03.2021, a demand for an amount of Rs.328,731,807/- was raised against the petitioner by respondent No.3 (Deputy Commissioner Inland Revenue) under section 14 along with default surcharge in terms of section 8 of the Federal Excise Act, 2005 ("the 2005 Act") for the Tax Year 2017. Furthermore, a penalty was also imposed on the petitioner under section 19(1) of the 2005 Act. The petitioner challenged the said order dated 31.03.2021 in an appeal before respondent No.2 on 21.04.2021. Along with the said appeal, the petitioner also filed an application for grant of stay. The petitioner's appeal along with its stay application is still pending adjudication before the said respondent.

3. Learned counsel for the petitioner submits that even though the petitioner's appeal is still pending adjudication before respondent No.2, the petitioner has an apprehension that the respondent department may initiate recovery proceedings on the basis of the impugned order-in-original dated 31.03.2021; 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 notices to the respondents, with the direction to respondent No.2 to decide the petitioner's stay application expeditiously and preferably within a period of two months from today. Until the decision on the petitioner's stay application, the respondent department is directed to restrain from adopting coercive measures for the recovery of the disputed tax liability. The petitioner is directed to appear and argue its case before respondent No.2 without seeking any adjournment as and when its stay application is fixed for hearing.

5. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE