

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

W.P.No.2018 of 2020  
Oracle Systems Pakistan (Private) Limited  
**Versus**  
Pakistan through the Secretary, Revenue and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>28.07.2020</b>	<b>Mr. Saad M. Hashmi, Advocate for the petitioner</b>

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

2. The record shows that on 26.01.2019, respondent No.5 (Deputy Commissioner Inland Revenue) issued a hearing notice in Order-in-Appeal No.559/2016, whereby the proceedings were remanded to respondent No.5. Respondent No.5, vide Order-in-Remand No.01/43, dated 09.06.2020 a demand for an amount of Rs.60,118,774/- in respect of non- withholding of sales tax on advertisement services was raised against the petitioner and Rs.7,11,723,978/- under Section 34 apart from penal action in terms of Section 33(5) of the Sales Tax Act, 1990 ("the 1990 Act") pertaining to the tax period June, 2013 to May, 2015. Being dissatisfied with the said Order-in-Remand, the petitioner filed an appeal before respondent No.2 on 30.06.2020. Along with the said appeal, the petitioner also filed an application for grant of stay. Respondent No.2 vide order dated 02.07.2020 dismissed the said stay application. On 06.07.2020, the petitioner filed an appeal and stay application before respondent No.3 (Appellate

Tribunal Inland Revenue). Respondent No.3 vide order dated 08.07.2020 disposed of the said appeal and stay application with the direction to respondent No.5 not to take any coercive measures for the recovery of the impugned demand without prior notice of fifteen days to the petitioner. On 20.07.2020, respondent No.5 issued a recovery notice under Section 48 of the 1990 Act directing the petitioner to pay the impugned demand till 05.08.2020.

3. Learned counsel for the petitioner submits that the impugned recovery notice dated 20.07.2020 has been issued by respondent No.5 without lawful authority as the respondent department failed to abide by the direction issued by respondent No.3 in its order dated 08.07.2020, whereby the respondent department was directed not to use coercive measures for the recovery of the disputed tax liability without prior fifteen days' notice; 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 recovery notice dated 20.07.2020 and Order-in-Remand dated 09.06.2020; 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 and 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 respondent No.2 to decide the petitioner's appeal expeditiously, and preferably within a period of 60 days from today. Until the decision on the petitioner's appeal, the respondent department is restrained from adopting coercive measures for the recovery of the disputed tax liability. Furthermore, the respondent department is also directed not to adopt coercive measures for seven days after the decision of the petitioner's appeal by respondent No.2 in case the petitioner's said appeal is dismissed. The petitioner is directed to appear and argue its case before respondent No.2 without seeking any adjournment as and when its appeal is fixed for hearing.

5. Disposed of in the above terms.

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

Qamar Khan\*