

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-3486 OF 2012
C.P. No.D-432 OF 2014

Order with signature of Judge

C.P. No.D-3486 of 2012

BP Pakistan Exploration and Production, Inc.
Vs.
Federation of Pakistan and others

C.P. No.D-432 of 2014

Abbott Laboratories (Pakistan) Limited
Vs.
Pakistan and others

12.11.2018.

M/s Ali Almani, and Hyder Ali Khan, Advocates for
petitioners.
Mr. Kafeel Ahemed Abbasi, Advocate for respondent Tax
Department.
Mr. Mohammad Zahid Khan, Assistant Attorney General.

ORDER

Mohammad Ali Mazhar, J. In the aforesaid petitions, the petitioners have sought declaration that the Commissioner does not have power to select a person for an audit and he can only conduct an audit once the person has been selected by the Federal Board of Revenue under Section 214C of the Income Tax Ordinance, 2001. They have further challenged the proviso added to Section 177(1) of the Income Tax Ordinance, 2001 being unconstitutional and contrary to the scheme of the Ordinance, 2001.

The learned counsel for the petitioners submit that similar controversy has already been decided by a learned Divisional Bench of this Court in the cases of Messrs PFIZER PAKISTAN LTD. through Company Secretary and others versus Deputy Commissioner and others (2016 PTD 1429). The learned Divisional Bench in concluding paragraph has held as under:-

6.----- Thus after examining the provisions of Sections 120(1A), 122(5), 177 and 214C of the Income Tax Ordinance,

2001, it clearly appears that the law visualizes two distinct situations for conducting audit. The first is provided under Section 120(1A) which, in our view, is based on exercise of discretion on the part of the Commissioner and the other is the power of the Board to select persons or class of persons under Section 214C. We are therefore of the view that by invoking Section 120(1A) any person can be called upon by the Commissioner in his discretion to submit accounts for audit if reasonable grounds exist for doing so. Hence no case for interference under Article 199 is made out.”

Mr. Kafeel Ahmed Abbasi, learned counsel appearing for the Tax Department has conceded to the arguments and requests that the above petitions may be disposed of in the same terms.

In view of the above, both the petitions are disposed of in the same terms as contained in the aforesaid judgment. Office is directed to place a copy of this judgment in the connected petition.

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