

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P No. D-8233 of 2019 a/w**

CP No.D-8043,8164,8234 to 8247, 8271 to 8284,8367 to 8377,  
8382,8385,8389,8390,8395,8396,8397,8416,8417,8427 to 8234, 8446 to  
8453, 8455,8470,8499 to 8503,8506,8507,8508,8517,8518,8525 to 8531,  
8534,8539,8540,8540,8543 to 8547, 8552,8559,8560 &8561 of 2019,  
CP No.D-355 to 359, 659,660,665,696,758,759,1173, 2048,  
2652,2661,6583,5571 of 2020  
CP No.D-5,6,7,8, 9 & 955 of 2021

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Date	Order with signature of Judge(s)
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**Priority**

1. For hearing of CMA No.36288/2020.
2. For hearing of main case.

**18.02.2021**

M/s. Haider Ali Khan, Muhammad Din Qazi, Ovais Z. Sarki, Javed Farooqi, Imran Iqbal Khan, Abid Shahban, Maaz Waheed, Mrs. Saima Faiz Durrani, Kashif holds brief for Dr. Shahnawaz, Jahanzeb holds brief for Ovais Ali Shah, advocates for the petitioners.

Mr. Muhammad Ahmer, Assistant Attorney General.

M/s Muhammad Taseer Khan, Mujeeb Zeeshan holding brief for Ameer Bux Metlo, Shakeel Ahmed Khan holding brief for M. Aqeel Qureshi, Mr. Zubair Qureshi holding brief for Zehra Jabeen, Mohsin Ali Mithani, M. Bilal Bhatti advocates for the respondents.

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These matters are in respect of section 65B of the Income Tax Ordinance, challenging amendments through which (as contended) the incentives granted to the Petitioners have been unilaterally withdrawn despite being assured a fixed period and are pending since 2019, whereas, no comments have been filed in most of the petitions. Despite this, arguments were made by the petitioners' counsel on 19.11.2020 and since then are pending. On 28.01.2021, no one proceeded on behalf of the department as brief was held on behalf of Mr. Ameer Bux Metlo, Advocate, being busy before another bench, whereas Mr. Muhammad Taseer Khan, Advocate argued that he has not received comments. Today, again Mr. Mujeeb Zeeshan, advocate holds brief for Mr. Ameer Bux Metlo, Advocate and submits that he out of station, whereas no other counsel present on behalf of the Respondents / department are willing to proceed with these matters.

Mr. Abdul Qadeer, Deputy Commissioner, Inland Revenue has today come to the Court for the first time; while confronted, he submits that he is the Departmental Representative of the Inland Revenue Department; however, he is not in a position to proceed or assist in any

manner and requests for time. This conduct of the department is despite there being restraining orders against them.

We may observe that this bench has been constituted by the Hon'ble Chief Justice to decide tax matters, wherein stay orders are operating for more than six months; however, despite our best efforts, it is the department (in majority of the cases), which is causing delay and is impediment in early disposal of such cases. Earlier in *Special Customs Reference Application Nos. 157 to 165 of 2013* on 5.11.2020 in somewhat similar situation we had passed the following order;

“Before parting we may observe that this Bench has been constituted by the Hon'ble Chief Justice to decide tax matters wherein stay / restraining orders are operating beyond a period of six months. This is an effort on the part of the Court to decide all such matters expeditiously. However, in this case as well as in a number of other cases generally, regretfully, we have noticed that the applicant / department as well as other departments of the FBR are neither vigilant in pursuing their matters nor any Departmental Representative (“DR”) is in attendance before the Court on a permanent basis. We remember in earlier times a DR used to attend the Court on daily basis, not only to assist their Advocates but also to take note of cases of FBR in Courts and to apprise respective departments regarding progress. These days' no one turns up as a DR from any of the departments of FBR. It has also been noticed that the department (specially in matters pertaining to Inland Revenue Department), in identical facts and legal issues engages more than one Counsel and due to absence of any one of them, the matters are continuously adjourned, whereas, no timely comments are filed; nor the Counsel are ready to proceed when so directed. In fact, in a number of cases pertaining to Customs Department, the Collector of Customs (Preventive), & (Port Qasim) despite being served, have invariably chosen not to appear and defend the matters. This is a very sad state of affairs insofar as assistance from FBR's departments is concerned. We believe there are independent legal wings and departments within FBR headed by a Member (Legal), and despite this, the conduct before the Court is pathetic.”

It appears that no positive effort is forthcoming on the part of FBR's departments. In the circumstances, let copy of this order be sent to the Chairman, FBR, as well as Member Inland Revenue (Operations) and Member (Legal), FBR, for information. Since we have a heavy board and there are numerous matters of like nature, which can be heard and decided expeditiously, we are compelled to order the office to note that these matters may not be treated as partly heard, and be fixed accordingly on the next date.

Adjourned to a date in office. Interim orders, if any, to continue till the next date of hearing.

Office is directed to place copy of this order in connected cases as above.

JUDGE

JUDGE

Hyder/PA