

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

C.P. No.D-5517 of 2021

M/s W.R. Edible Oil Refinery
Versus
Federation of Pakistan & others

Date	Order with signature of Judge
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1. For orders on Misc. No.23120/21
2. For orders on office objection No.10
3. For orders on Misc. No.23121/21
4. For orders on Misc. No.23122/21
5. For hearing of main case

Dated: 14.09.2021

Mr. M.R. Muhammad Aleem for petitioner.

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Heard.

This petition impugns notice under section 46 of the Federal Excise Act, 2005 dated 06.09.2021 for the period 01.07.2017 to 30.06.2018. Section 46 provides that an officer of the Inland Revenue authorized by the Board or the Commissioner by designation may once in a year after giving advance notice in writing conduct audit of record and documents of any person register under this Act. Subsection (2), that relates to the case in hand, provides that in case Commissioner has information or sufficient evidence showing that such registered person is involved in fraud or evasion of duty, he may authorize an officer not below rank of Assistant Commissioner to conduct audit at any time in a year.

In this regard while exercising jurisdiction under ibid section 46(2) primary notice had already been sent to the petitioner vide letter dated 01.09.2021, however, the same is not impugned here, perhaps for the reason that cognizance against the petitioner, being involved in alleged

fraud or evasion of duty, may have been taken and disclosed therein. Hence, unless there is a challenged to the initial/primary notice issued on 01.09.2021, it cannot be conceived that the instant impugned notice under section 46 of Federal Excise Act, 2005, which is dated 06.09.2021, is devoid of any such prerequisite of Section 46 of ibid Act of 2005. It is not even disclosed and/or pleaded in the petition that the petitioner has not received any such notice dated 01.09.2021. Consequently petition, being misconceived, is dismissed in limine along with listed applications.

Judge

Judge