## **ORDER SHEET**

## HIGH COURT OF SINDH AT KARACHI

C.P. No.D-6220 of 2022

Date Order with signature of Judge

1. For orders on Misc. No.26457/2022 (U/A)

2. For orders on Misc. No.26458/2022 (Ex/A).

3. For orders on Misc. No.26459/2022 (Stay)

4. For hearing of main case

17.10.2022.

Mr. Muhammad Aleem, Advocate for the petitioner.

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## 1. Urgency granted.

2to4. This petition has been filed seeking stay from this Court as the petitioner has filed an appeal before the Commissioner Appeals which along with the stay application is pending adjudication and that he apprehends that during the pendency of his appeal and stay application the respondents/department could initiate recovery proceeding against the petitioner. The leaned counsel was apprised with regard to the letter dated 05<sup>th</sup> October, 2022, which reads under:

"Government of Pakistan Revenue Division Federal Board of Revenue Inland Revenue

C.No.7(20)S(IR-Operations)/2021/209984-R

Islamabad, the 05<sup>th</sup> October, 2022

## Chief Commissioners Inland Revenue

- i) Large Taxpayers' Offices
- ii) Corporate Tax Offices
- iii) Medium Taxpayers' Office
- iv) Regional Tax Offices.

Subject: <u>Undue recovery Proceedings under Section 138 at 1<sup>st</sup> Appellate stage</u>

I am directed to refer to the subject and FBR's letter No.C.No.7/(20)S(IR-Operations/2020 dated October  $12^{th}$ , 2021 (**copy enclosed**) whereby field formations were instructed to avoid coercive measures until case has passed the test of appeal at the level of Commissioner (Appeals), Relevant portion of the letter dated October  $12^{th}$ , 2021 is reproduced as under:

"Coercive measures, until case has passed the test of appeal at the level of Commissioner IR(Appeals), may be avoided. Moreover, in order to utilize collective wisdom, a committee comprising of Senior Commissioners IR headed by Chief Commissioner IR may be constituted at formation level to deliberate on the cases before according approval for coercive measures".

2. In context of the foregoing, it has come into the knowledge of the Board that the instructions contained in aforementioned FBR's letter are not being followed. In this regard, it is clarified that the instructions/directions issued by FBR vide aforementioned letter have not been withdrawn and to be followed in letter and spirit".

Sd/-Mohsin Aman Secretary (IR-Operations)" The above letter suggests that FBR itself has taken decision that no coercive actions are to be taken until the matter passes the test of appeal at the level of Commissioner IR (Appeals). In view of such instructions, the petition is found to be not maintainable, which along with the listed applications stands disposed of. However, the petitioner would be at liberty to approach the department for redressal of his grievance.

JUDGE

JUDGE