

**OUT TODAY**

**IMMEDIATE**

523

**IN THE LAHORE HIGH COURT, LAHORE**

From


The Addl. Registrar (Judl.),  
Lahore High Court,  
Lahore.

9866/14

To,

17 MAY 2014.



1. The Federation of  High Secretary Finance, Finance Division, Islamabad.
2. The Federal Board of Revenue, Constitutional Avenue Islamabad through its Chairman.
3. The Commissioner Inland Revenue, Regional Tax Office, Lahore.
4. The Deputy Commissioner Inland Revenue, Unit-03, withholding Taxes Zone, Regional Tax Office-II, Lahore.

*[Handwritten signature]*

23 MAY 2014

M (L)

Chief(L-I)  
S(Lit-SC)  
S(L&Auto)  
SS(T-I)  
SS(T-II)  
Chief(L-III)  
S(Lit-HC)  
SS(Lit-HC)  
S(LDT)  
S(LIDT)  
SPS

Subject: **WRIT PETITION No.** 9866/2014  
**M/S Akhtar Saeed Medical** **VERSUS** **F.O.P. etc**  
 Sir,

FBR eDOX Dy No. 79691  
 Received on R&I Branch on 26 MAY 2014

In continuation of this Court letter No. \_\_\_\_\_

dated \_\_\_\_\_

I am directed to forward for information and immediate compliance a copy of this Court's Order/Judgment dated 12.05.2014 passed in the above-noted case.

FBR v. U.S. No. 79691-F  
 Received in (HL) Office on 27-05-14

*Discard*  
*Pl. in writ. Atw*  
*pl. in writ*  
*27-05-14*  
*S(Lit-HC)*  
*S.S(Lit-HC)*

Your's Faithfully  
*[Signature]*  
 17.05.14

Assistant Registrar (Writ)  
 For Addl. Registrar (Judl.)

*[Signature]*  
 17/5/2014

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

W.P. No.9866 of 2014

Akhtar Saeed Medical & Dental College Vs FOP etc

S. No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties or counsel, where necessary
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12.05.2014	Mr. Muhammad Ajmal Khan, Advocate, for the Petitioner. Mr. Kanwar Riaz Ahmad Khan, Advocate for Respondents.
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Through this petition, the Petitioner has impugned a notice issued under Rule 44 (4) of the Income Tax Rules, 2002 (2002 Rules).

2. The case of the Petitioner is that the said rule is read with Section 161/205 of the Income Tax Ordinance, 2001 (2001 Ordinance) hence the proceedings are illegal and contrary to law. Learned counsel argued that the Petitioner has given all the necessary record and information to the Respondents along with his return, therefore, there is no justification in issuance of show cause notice to the Petitioner under Rule 44 (4) of the 2002 Rules.

3. Learned counsel for the Respondents has raised a preliminary objection and states that the instant petition is not maintainable as no proceedings under Section 161 of the 2001 Ordinance have commenced against the Petitioner, therefore, it is a misstatement of the Petitioner that the matter should be connected with the pending cases under Section 161 of the 2001 Ordinance. He further argued that notice under Section 44 (4) of the 2002 Rules has been issued for furnishing of information, which is not contrary to the law. He further states that at this stage, the Petitioner has only been

S. No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
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asked to submit information under Rule 44 (4) of the 2002 Rules.

4. I have heard learned counsel for the parties at length on the question of maintainability of this petition.

Rule 44 (4) of the 2002 Rules provides that:-


*"A person required to furnish the statements under sub-rule (1) or (2) shall, wherever required by the commissioner, furnish a reconciliation of the amounts mentioned in the aforesaid annual and monthly statements with the amounts mentioned in the return of income statement, related annexes and other documents submitted from time to time."*

In terms of the said rule, the Petitioner has only been asked to furnish required information. At this stage, the statement of the Petitioner that these are proceedings under Section 161 of the 2001 Ordinance is incorrect. There has been no determination for the purposes of Section 161 of the 2001 Ordinance. Even otherwise, a review of the notice shows that the Petitioner has been asked to submit reconciliation of all payments mentioned in the annual statement along with the payments made against trading and P&L account mentioned in the income tax return and Audited accounts. The Respondents have stipulated clearly the different heads in which the information is sought and the amounts paid in terms thereof. As such no illegality is made out. This petition is **dismissed** being not maintainable.

  
(AYESHA A. MALIK)  
JUDGE

**TRUE COPY**

In Case No.....

  
17/5/2014  
Examination (Copy Branch)  
Lahore High Court, Lahore.

Anwar  
14/5/2014