

**IN THE LAHORE HIGH COURT, MULTAN BENCH, MULTAN**

No. 18557 /WRIT

Dated 15-03-19

From

The Deputy Registrar,  
Lahore High Court,  
Multan Bench, Multan.

To

1. Federation of Pakistan, through Revenue Division, Government of Pakistan, Islamabad.
2. Federal Board of Revenue, Islamabad, Through ITS Chairman.
3. The Commissioner Inland Revenue, Zone III, Regional Tax Office, Nawan Shaher, Multan.

Chief(L-I)  
 S(Lit-SC)  
 SS(Lit-SC)  
 SS(T-I)  
 SS(T-II)  
 Chief(L-II)  
 S(Lit-HC)  
 SS(L-A&A)  
 Chief(L-III)  
 S(LDT)  
 S(IDT)

*21/3*  
 - Please circulate this judgement  
 - Place on FBR legal and also send copy to M(R-ops.)

38841-1  
 Received in (ML) Office of 21-03-19

Subject:- Writ Petition No. 6463/11  
M/s city VS Fop  
 Memo

I am directed to forward for information and immediate compliance copy of this court's Order/Judgment date 11-3-19 passed in the above noted case

*M. abidul*  
*[Signature]*

*[Signature]*  
 Assistant Registrar (Writ.)  
 For Deputy Registrar (Jud II)  
 15.3.19

Form No:HCJD/C-121

**ORDER SHEET**

**IN THE LAHORE HIGH COURT  
MULTAN BENCH MULTAN  
JUDICIAL DEPARTMENT**

Case No. W. P. No. 6463 of 2011.

M/s City Designers.

**Versus**

Federation of Pakistan etc.

S.No. of order/ Proceedings	Date of order/ Proceedings	Order with signature of Judge and that of Parties of counsel, where necessary.
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11.03.2019. Malik Mumtaz Hussain Khokhar, Advocate for the petitioner.  
M/s Tariq Manzoor Sial and Agha Mehmood Ahmad, Advocates for the respondents.

Petitioner has challenged notice under Section 177 of the Income Tax Ordinance, 2001 (“**Ordinance of 2001**”), whereby Commissioner Inland Revenue (“**Commissioner**”) has called for record to conduct audit.

2. It is apprised by learned counsel for the respondents that the issue involved in this petition regarding Commissioner’s power under Section 177 of the Ordinance of 2001, after amendment through Finance Act, 2010, had been declared *ultra vires* by learned Single Bench of this Court through judgment in Messrs Chenone Stores Ltd. through Executive Director (Finance Accounts) v. Federal Board of Revenue through Chairman and 2 others (2012 PTD 1815) (“**Chenone Stores**”) judgment.

3. Appeals against the Chenone Stores’ judgment have been allowed by learned Division Bench of this Court through judgment in The Federal Board of Revenue etc. v. M/s Chenone Stores Ltd. (2018 PTD 208), operative part of which is reproduced:-

*l*

"25. Appeals filed by department (listed in Annex-A) are allowed to the extent and in the manner as discussed above, by declaring that the Explanations inserted, in the Federal Taxing Statutes, through Finance Act 2013, have effectively obliterated binding force of the judgment in Chenone Stores' Case.

The judgment in Kohinoor Sugar Mills' Case, being in consonance with legislative declaration and clarification under the Explanations inserted in the Ordinance of 2001, through Finance Act 2013, is upheld. The appeals filed by taxpayers (listed in Annex-B) are dismissed."

4. For the reasons in the judgment by learned Division Bench, *ibid*, this writ petition is dismissed.

  
\*A.W.\*

  
(Shahid Jamil Khan)  
Judge

TRUE COPY

  
MILIAN DEPARTMENT

IN THE LAHORE HIGH COURT, MULTAN BENCH MULTAN,

Writ Petition No. 6463/11

M/S CITY DESIGNERS, MAIN ROAD GULSHAN-E- ALI HOUSING SCHEME, BY PASS  
ROAD, SAHIWAL through Muhammad Asif Ali Partner

PETITIONER

VS

1. Federation of Pakistan, through Revenue Division, Government of Pakistan, Islamabad.
2. Federal Board of Revenue, Islamabad, Through ITS Chairman.
3. The Commissioner Inland Revenue, Zone III, Regional Tax Office, Nawan Shaher, Multan.

RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973  
AGAINST THE PROCEEDINGS UNDEDR SECTION 177(1) OF  
THE INCOME TAX ORDINANCE, 2001 & U/S 46 OF THE FEDERAL  
EXCISE ACT, 2005 FOR THE TAX YEAR, 2009**

Respectfully Sheweth,

**FACTS**

1. The present petition is being instituted and filed under the signature of **Asif Ali** Managing partner who is fully conversant with facts of the case and is fully authorized in this behalf to institute, file this petition and to sign and verify the same and to do all things necessary and incidental thereto.
2. That the Petitioner is carrying on business of City Town Planners under the status of Association of Persons (AOP) and duly registered with the Tax Authorities at National Tax Number (NTN) **2035517**.
3. That the petitioner filed his Income Tax return for the tax year 2009 , which was duly filled in and verified in prescribed manners on **30.12.2009** . Copy of return is attached as **(Annex - A )**
4. That the respondent No. "3" issued letter/order No. **CIR-Zone-III/RTO-MN/437 dated 13.04.2011** under section 177(1) of the Income Tax Ordinance, 2001 for the tax year 2009 and required books of accounts and relevant record for conducting of audit for the tax year mentioned supra due to reasons placed in the letter/order. Copy attached as **(Annex- B )**



Filed 13/04/2011  
Assistant Registrar (Judicial)  
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