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Form No:HCJD/C-121

ORDER SHEET

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

Writ Petition No.17135 of 2021

Medialogic Pakistan (Pvt.) **Versus** Federation of Islamic Republic of
Limited. Pakistan, etc.

S.No. of order/ Proceedings	Date of order/ Proceedings	Order with signature of Judge and that of Parties of counsel, where necessary.
	17.03.2021	M/s Muhammad Shahid Baig and Muhammad Bilal Parvez, Advocates for the petitioner. Mr. Anas Sheikh, Advocate/Legal Advisor for respondents FBR. Mr. Muhammad Jamil Bhatti, Director (Law), FBR. Ms. Anum Tahir, Deputy Commissioner, Inland Revenue, Unit-13.

Petitioner is aggrieved of notice dated 26.02.2021 under Section 140 of the Income Tax Ordinance, 2001 (“**Ordinance of 2001**”) issued by the Deputy Commissioner, Inland Revenue, whereby petitioner’s account has been attached.

2. Learned counsel for the petitioner submits that the Assessment Order was never communicated to the petitioner for filing any appeal and that the impugned recovery proceeding was a surprise for the petitioner.

Learned counsel for the respondent department has informed that amount in question has been withdrawn from the accounts and is deposited with the Treasury.

3. The impugned notice is not disclosing any assessment order and the proceedings already taken by the respondents. This Court, in number of cases, has observed and directed that a demand notice should contain all the information, based on which, the action is proposed i.e. date and number of Assessment Order, result of appeal, if any, and dates and details of the previous recovery notices, non-compliance of which has compelled the Officer to take the extreme action under Section 140 of the Ordinance of 2001.

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The Deputy Commissioner, Inland Revenue and the Director (Law), FBR are confronted to show from record that these details are available in the impugned notice but they failed to point out any.

4. It is reiterated that after insertion of Articles 10-A and 19-A in the Constitution of the Islamic Republic of Pakistan, 1973 ("the Constitution"), disclosure of information and compliance of due process are fundamental rights of every citizen, in any proceedings under the law. The impugned recovery notice in absence of the information and due process is hereby declared as illegal, being in violation of the fundamental rights. However, this order shall not prejudice merits of the Assessment Order, which, if holds field, has to be assailed in accordance with law. Further, this decision shall restrict to the extent of impugned recovery notice.

The Director (Law) FBR shall communicate copy of this order to the Chairman (FBR), who shall circulate this Court's directions to all the Commissionerate under FBR for compliance.

5. The Deputy Commissioner, Inland Revenue, present before the Court has undertaken that copy of the Assessment Order shall be provided to the petitioner enabling him to assail the same in accordance with law, if not already communicated.

Disposed of.


(Shahid Javed Khan)
Judge

SAJIAD

TRUE COPY

In Case No. 17135/21

Examiner, J.C.B (Copy Branch)
Lahore High Court, Lahore