

REGISTERED POST
IN THE LAHORE HIGH COURT, LAHORE

JIS WRIT

No. 36000
Dated 15/6/22

From,

[Signature]
The Additional Registrar (Judicial),
Lahore High Court, Lahore

27 JUN 2022

[Signature]
To,



Chief (L-I)
S-Lit(SC)
S(A&A)
S(A)
Chief (L-II)
S-Lit(SC)
S(L-DT)
S(L-IDP)
Chief (L-III)
S(PA)
S(TO-I)
S(TO-II)
PS

1. The Federation of Pakistan through Secretary Finance, Revenue Division, Islamabad.
2. The Federal Board of Revenue, through its Chairman, FBR House, Constitutional Avenue, Islamabad.
3. The Chief Commissioner Inland Revenue, Large Taxpayer Office (LTO), Tax House, Nabha Road Lahore.
4. The Commissioner Inland Revenue, (Enforcement-II) Zone-VI, Large Taxpayer Office (LTO), Tax House, Nabha Road Lahore.

Place on website

*Pl. Proven
S(Lit-HC) 29/6*

29/6

Subject:- WRIT PETITION/ICA/CRL.ORG.NO. 36000-22

VS

Memo,

In continuation of this Court's Letter No. _____

Dated _____ I am directed to say that the case cited on the subject has been disposed of. A copy of order dated 10-6-22 is enclosed herewith for necessary action. ~~A copy of Petition on which the order has been passed is also enclosed herewith.~~

[Signature]
Assistant Registrar (Writ-I)
For Additional Registrar (Judicial)

FBR e-Box No
Received in (ML) Office on 29 JUN 2022

140521
FBR e-Box No
Received in (ML) Office on 27 JUN 2022

Searched

Form No.HCJD/C-121

ORDER SHEET
IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT.

W.P. No.36000 of 2022.

M/s Ruby Steel Corporation
Pvt. Limited

VERSUS

Federation of Pakistan and
others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signatures of Judge, and that of parties of counsel, where necessary
	10.06.2022.	Mr. Muhammad Ajmal Khan Advocate for the petitioner. Ms. Riaz Begum Advocate for respondent/FBR. Mr. Azmat Hayat Khan Lodhi, Assistant Attorney General.

This writ petition calls into question order dated 12.03.2022 passed by respondent No.4 and order dated 26.05.2022 passed by respondent No.3.

2. The issue relates to dismissal of the petitioner's application for grant of exemption certificate in terms of section 153(4) of the Income Tax Ordinance, 2001 (the Ordinance).

3. Learned counsel submits that the petitioner was in compliance of the provisions of section 153(1)(a) as it had discharged its liability to pay advance tax and as such the Commissioner Inland Revenue/respondent No.4 had no jurisdiction to reject the petitioner's application to grant of exemption certificate and respondent No.3 ought to have allowed the revision filed by the petitioner against the order of respondent No.4.

4. Respondent No.4 in his order made the following allegations:

As per sales tax declarations the minimum stock of raw material that should be available with taxpayer at the time of visit be of Rs.655,246,612/-. The taxpayer company has

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failed to rebut this position of stock with any material evidence. The non existence of required stock as per taxpayer's own declaration at the time of visit leads to the conclusion that the stock has been sold or goods manufactured by using that stock have been sold out and projected turn over given for the purposes of calculation of advance tax liability under section 147 (7) of the Income Tax Ordinance, 2001 has been grossly understated. Thus, the due advance tax liability under section 147 of the Income Tax Ordinance, 2001 remains unpaid.

Secondly, the wrong issuance of exemptions in the previous period due to absence of true/factual position of stock of the taxpayer on record does not entitle the taxpayer for grant of exemption certificate for the next period as well. It would not be out of place to mention here that the Directorate of Intelligence and Investigation Lahore has already investigated and the issue of suppression of sales by the taxpayer has been communicated vide its contravention report C.No.DD-1/1075/2019/3204 dated 29.01.2021 has already been issued involving alleged suppression of sales Rs.538,637,735/-.

Similarly, respondent No.3 made the following observations in his order:

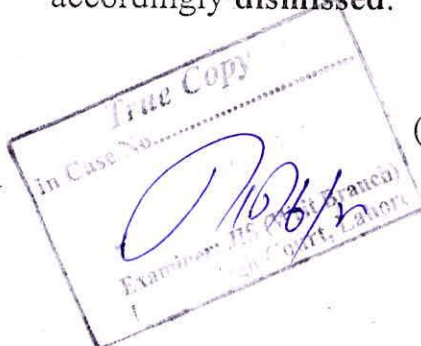
.....on the issue of suppression of stock/sales has already been highlighted by Directorate of I&I vide contravention report C. No.DD-1/1-1075/2019/2304 dated 29.01.2021 for the tax periods 01.01.2016 to 31.03.2019. Departmental has already progressed to conclude the above mentioned proceedings which have brought sufficient material on record as regards the aforementioned suppression. Similarly scrutiny of computation chart of return shows that the taxpayer has filed return for tax year 2021 declaring loss at Rs.(50,768,204), turnover at Rs.1,042,262,946/- on which turn over tax has

been paid at Rs.15,633,944/-. The impact of suppressed stock as identified by CIR Enforcement-II for the period under consideration was duly confronted to the taxpayer at Rs.6,552,446,612/-. In view of the foregoing, the advance tax liability u/s 147 on the basis of above mentioned suppressed sales as identified remains unpaid. CIR has correctly apprehended the non-declaration/suppression of stock/sales and proceeded to carry out stock taking in order to unveil the true facts regarding computation of advance tax liability.

5. On being confronted with the observations made by respondents No.3 and 4 in their orders regarding the suppression of sales/stocks on which advance tax has not been paid by the petitioner, the learned counsel stated that the report of Directorate of I&I could not be taken into account by the said respondents by virtue of section 3 of the Ordinance. Section 3 of the Ordinance is simply a non-obstante clause which does not preclude respondents No.3 and 4 from taking into account the facts which had surfaced regarding suppression of sales/stocks by the petitioner. It was, therefore, established before respondents No.3 and 4 that the petitioner had not discharged its liability of payment of advance tax in terms of section 153. Accordingly, the orders passed by respondents No.3 and 4 do not suffer from any irregularity or illegality.

6. This writ petition being devoid of any merit is accordingly **dismissed**.

(Shams Mehmood Mirza)
Judge.



9/10/22
106/22
Ihsan

IN THE LAHORE HIGH COURT LAHORE

W.P.NO. 36605 /2022

M/S RUBY STEEL CORPORATION PRIVATE LIMITED, Barkat Town
Bus Stop, Near Habib Flour Mills, G.T Road, Lahore through its Director
Mr. Qaiser Latif S/o Sheikh Abdul Latif.
CNIC No: (35202-3152747-3)

.... PETITIONER

Versus

1. The Federation of Pakistan through Secretary Finance, Revenue Division, Islamabad.
2. The Federal Board of Revenue, through its Chairman, FBR House, Constitutional Avenue, Islamabad.
3. The Chief Commissioner Inland Revenue, Large Taxpayer Office (LTO), Tax House, Nabha Road Lahore.
4. The Commissioner Inland Revenue, (Enforcement-II) Zone-VI, Large Taxpayer Office (LTO), Tax House, Nabha Road Lahore.

.... RESPONDENTS

WRIT PETITION:

UNDER ARTICLE 199 OF THE CONSTITUTION
OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

Respectfully submitted:

- 1) That the addresses of the parties as given in the title of the petition are correct and sufficient for proper services of notices on the parties.
- 2) That the Petitioner is an Company and present petition is being instituted through its director Mr. Qaiser Latif S/o Sheikh Abdul Latif who is competent to institute the petition and well conversant with the facts and circumstances of the case and also competent to affirm its contents.
(Annexure-A)
- 3) That the Petitioner Company is a "Taxpayer" within the meaning of section 2(66) of the Ordinance supra and a person prescribed to withhold tax on behalf of the State under different provisions of the Ordinance relating to deduction of tax at source.
- 4) The Board has also the power to appoint Income Tax Authorities as laid down under section 208 of the Ordinance. The Respondents No. 3 and 4 are not only appointees