ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D-4929 / 2025

(Lucky Electric Power Company Limited V. Federation of Pakistan & Others)

Date

Order with signature of Judge

**Present:-**

Mr. Justice Adnan Iqbal Chaudhry.

Mr. Justice Muhammad Jaffer Raza.

**HEARING OF CASE** 

1) For hearing of CMA No. 20601/2025.

2) For hearing of main case.

Date of hearing

21.10.2025

Date of announcement

21.10.2025

Mr. Ovais Ali Shah, Advocate for Petitioner.

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Ms. Rabia Khalid, Assistant Attorney General.

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Muhammad Jaffer Raza, J.. Mr. Irfan Mir Halepoto, Advocate files

Vakalatnama for Respondent No. 5 and submits that the impugned recovery

notice is not contrary to the Judgment of the Supreme Court of Pakistan in

the case of Commissioner Inland Revenue (Legal) Islamabad Vs.

Pakistan LNG Limited and others1. As per aforesaid judgment of the

Supreme Court, it was held that recovery must be preceded by a notice and a

reasonable opportunity to comply. It has also been held that upon decision of

the appellate forum, the department has to issue a fresh notice under section

137(2) of the Income Tax Ordinance, 2001, giving a fresh period of 30 days to

make payment, and only thereafter can the department resort to section 138(1)

of the Ordinance. We have examined the impugned notices issued under

Section 138(1) of the Income Tax Ordinance, 2001 ("Ordinance") dated

08.10.2025 seeking compliance on or before 09.10.2025. Since the order in

<sup>1</sup> Civil Petition No. 3578 & 4598 of 2024

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appeal was passed on 07.10.2025, we find that the impugned notice does not comply with the requirements laid down in the aforesaid judgment of the Supreme Court. Therefore, we dispose of the petition by setting-aside the impugned notice dated 08.10.2025 issued to the Petitioner under Section 138(1) of the Ordinance for tax year 2023. The Respondents would be at liberty to issue fresh notice under Section 137(2) before taking action against the Petitioner under section 138 of the Ordinance.

The petition is disposed of in the above terms.

JUDGE

JUDGE

Arshad/