

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**C.P No. D- 444 of 2018**

<b>Date</b>	<b>Order with signature of Judge</b>
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**Priority**

1. For hearing of CMA No. 1802/18.
2. For hearing Main Case.

**10.01.2023.**

Mr. Hyder Ali Khan, Advocate along with Mr. Sami-ur-Rehman, Advocate for Petitioner.  
Mr. Muhammad Aqeel Qureshi, Advocate for respondent / department.  
Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General along with Mr. G.M Bhutto, Assistant Attorney General.  
Mr. Imdad Ali Bhatti, Advocate holding brief for Mr. Gazain Magsi, Advocate for Respondents.

Through this Petition, the Petitioner has impugned a Show Cause Notice dated 27.12.2017 issued under Sections 161 /205 of the Income Tax Ordinance, 2001 on the ground that while issuing the said impugned Notice, the Respondent Department is misconstruing the provisions of Section 95(A) of the then Companies Ordinance, 1984 read with Rule 13(P)(f) of the Income Tax Rules, 2002 by treating the buyback of shares as Dividend, instead of treating it as a Capital Gain. While confronted as to entertaining this petition against a Show Cause Notice, learned Counsel submits that in that case while disposing of the petition, directions be issued to the Respondents to adhere to the relevant provisions of law as above.

Accordingly, in view of above, while disposing of this petition, we direct the Petitioner to respond to the impugned Show Cause Notice; whereas, the concerned Respondents shall decide the matter keeping in view the provisions of Section 95A of the then Companies Ordinance, 1984 read with Rule 13(P)(f) of the Income Tax Rules, 2002 strictly in accordance with law and after affording opportunity of hearing to the Petitioner. Since this petition is pending since 2018, let the exercise, as above, be completed preferably within a period of 60 days from today. If the petitioner is further aggrieved, appropriate remedy may be availed in accordance with law.

Petition stands disposed of in the above terms with pending applications.

***Judge***

***Judge***

Ayaz P.S.