

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P. No. D-6028 of 2023

Date	Order with Signature of Judge
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For hearing of main case

**03-03-2025**

Mr. Jawad A. Qureshi , Advocate for the Petitioner  
Barrister Syed Ahsan Ali Shah for the Respondent/FBR  
Mr. Rasheed Ashraf Advocate for the Respondent  
Mr. Zohaib Advocate holds brief for Mr. Khalid Mehmood Rajpar  
Advocate for Respondent  
Mr. Khalid Mehmood Siddiqui Advocate for Respondent  
Ms.Simran Advocate holds brief for Mr. Shah Rukh Khan Brohi  
Advocate for Respondent No.2  
Mr. Kashif Nazir, Assistant Attorney General

The petitioner (Hub Power Holding Limited), represented to be a public limited company, stated to be a shareholder of another limited company (China Power Hub Generation Company (Private) Limited), has filed this petition essentially seeking redressal of its *apprehension* that in respect of any dividend, that may become due thereto from respondent China Power Hub Generation Company (Private) Limited, the amount of withholding tax deducted may be contrary to the expectation of the petitioner.

Upon query as to whether there is *vires* of any law and / or any order of the exchequer etc. under challenge; learned counsel responded in the negative. The *cause* appears to be encapsulated vide paragraph 29 of the memorandum of petition, which states “...*despite repeated requests, it has not received any positive resolution of its grievance. The Board of Directors of the CPHCG has now approved payment of dividend to the shareholders, including the Petitioner. The payments will be subjected to the higher rate of tax causing severe prejudice to the Petitioner*”.

The payment of dividend is a corporate matter between a company and its shareholder and escalation of such *private* matters in writ jurisdiction has been consistently deprecated by the Courts, as seen from a Division Bench judgment of this Court in the *IBL* case reported as *2024 PTD 49*.

The petition was filed in 2023 and per the pleadings the dividend in question was to be distributed at that time. There was absolutely no suggestion that any amount of tax withheld from the dividends would not be subject to the final return. Irrespective of whether a grievance in respect of an interim deduction would survive once the final annual return was filed, there is no case before us of the petitioner being aggrieved of the tax treatment of the final return.

Even if the grievance remained / subsisted, the proper recourse ought to have been the dispute resolution mechanism stipulated per the Income Tax Ordinance 2001. No case is made out to abjure the statutory adjudicatory fora and that also in a case *prima facie* rested on surmises.

The learned counsel for the petitioner has not adverted to any fundamental right/s that may have been infringed by any respondent before us. It is also apparent that the primary grievance is with respect to an act presumed to be undertaken by a private respondent, demonstrably not

amenable to writ jurisdiction. While we have no cavil to any person expecting to maximize their return on equity<sup>1</sup>, no case is made out to construe such an expectation as actionable in the writ jurisdiction of this Court<sup>2</sup>.

Therefore, no case is set forth to merit invocation of the discretionary<sup>3</sup> writ jurisdiction of this Court and even otherwise this matter is fraught with factual controversy, not amenable for adjudication in writ jurisdiction<sup>4</sup>. In view hereof, this petition is found to be misconceived, hence, dismissed with costs of Rs. 100,000/-; to be deposited by the petitioner with the Sindh High Court Clinic within a week hereof. In the event that the costs are not deposited as aforesaid, the same may be recovered as arrears of land revenue; *inter alia* per Chapter VIII of the Land Revenue Act 1967.

Judge

Judge

Amjad PS

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<sup>1</sup> As pleaded in prayer clause iii.

<sup>2</sup> *AKD Investment Management Limited & Others vs. JS Investment Limited & Others* reported as 2020 CLD 596.

<sup>3</sup> *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.

<sup>4</sup> 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415.