

IN THE HIGH COURT OF SINDH, KARACHI

C.P No. D- 3099 of 2025

[Trustees of Hindaya Trust V. Fed. Of Pakistan and others.

Present:

Mr. Justice Yousuf Ali Sayeed,

Mr. Justice Muhammad Osman Ali Hadi

Date of hearing: 26.01.2026.

Date of decision: 26.01.2026.

Petitioner through Mr. Mushtaq Hussain Qazi, Advocate.

Respondents through Mr. Faheem Ali Memon, Advocate.

Federation of Pakistan through Mr. Muhammad Akbar Khan, Assistant Attorney General.

ORDER

Muhammad Osman Ali Hadi, J: The Petitioner has filed the instant Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. The essence of the relief being sought by the Petitioner is to set-aside orders passed by the Respondents against the Petitioner, whereby the Petitioner's (Appellant in the prior proceedings) contentions were not found acceptable, and order of the Commissioner Inland Revenue was upheld by Respondent No. 2.

2. The gist of the reasoning provided by the Inland Revenue Adjudicating Authority(s) below was that despite ample opportunity, the Petitioner remained unable to provide the requisite data showing them as a Non-Profit Organization ("**NPO**"), and hence could not (at least for tax purposes) be treated as such.

3. The Petitioner had filed an appeal before Respondent No. 2, who passed the Impugned Order. The Petitioner then invoked the Constitutional jurisdiction of this Hon'ble Court through the instant appeal.

4. Learned counsel for the Petitioner has referred to the Impugned Orders passed by the Chief Commissioner Inland Revenue /

Respondents¹ and submits that the said Orders are erroneous. The Petitioner has contended that the findings given were not in accordance with law. Counsel then contended that the Respondents failed to properly deliberate upon the evidence provided by the Petitioner, and hence the Orders below cannot be sustained. Accordingly, he prayed this instant Petition be allowed.

5. Learned counsel appearing for the Respondents controverted the assertions made by the Petitioner's Counsel and submitted that the proper and due process has been followed. He accordingly submits that Petition is liable to be dismissed.

6. We have heard the learned counsels, and have gone through the contents of the Petition. At the very outset, it appears that the Petition is not maintainable. The proper and due process has been followed by the Respondents, who had given the Petitioner an opportunity of a fair hearing, only after which an adjudication was finalized. Furthermore, the Impugned Order has clearly noted the submissions of the Petitioner and have considered their contentions, after which, they have provided their reasonings. The relevant portion of the Impugned Order is reproduced reads as follows:-

"5. This office has sheard the submissions of both the taxpayer and the concerned Commissioner Inland Revenue. The Commissioner Inland Revenue had previously rejected the taxpayer's request on the grounds that the taxpayer's evaluation request had been declined by the Pakistan Centre for Philanthropy (PCP). Furthermore, the taxpayer's contention regarding performance evaluation by the Chief Commissioner, based on FBR letter NO. CNo.6(8) S(IR-Operations)/2020 dated 14th October, 2022, is not found to be plausible. As the taxpayer had already opted for performance evaluation (as required under Rule-211(2)(g) of the Income Tax Rules, 2002) through the PCP, which was subsequently rejected by the PCP vide their letter dated 4th April, 2022."

7. The Petitioner has failed to provide any cogent legal / constitutional infringement against the said Impugned Order, nor have they been able to establish any violation of their fundamental rights. Furthermore, they have already followed and availed the due process under the Income Tax Ordinance 2001, including themselves filing an appeal under Rule 218 of the Income Tax Rules 2002. By filing such

¹ Available at page-239 of the file

appeal, they have acquiesced that there is an alternative adequate remedy which has been elected and followed by them, and they cannot now be allowed to deviate from such path simply because the decisions below have gone against them. We are fortified in this opinion by settled precedent of this Court as well as the Apex Court.²

8. Even otherwise, the relief claimed by the Petitioner would require a reappraisal of evidence, for which it is trite law the same cannot be availed under the Constitutional jurisdiction of this Court. It has been repeatedly observed that such actions of frivolously invoking the Constitutional jurisdiction of this Court in an attempt to try and dislodge inner workings of statutory authorities below should be deprecated, as the same amounts to abuse of process, which we find has been attempted to done through the instant Petition.

9. Accordingly, these are the reasons for our short Order dated 26.01.2026 dismissing the instant Petition.

Petition dismissed.

Judge

Judge

Ayaz

² *Sprint Oil & Gas Services Pakistan v OGDC* 2024 SCMR 117; *Orient Energy Systems v Asstt. Commissioner Inland Revenue* 2025 PTD 431