

IN THE HIGH COURT OF SINDH, KARACHI

C.P No. D- 2261 of 2026

Imtiaz Group (Private) Limited. V. Federation of Pakistan & others

Present:
Mr. Justice Yousuf Ali Sayeed,
Mr. Justice Muhammad Osman Ali Hadi

Date of hearing: 05.05.2026.

Date of decision: 25.05.2026

Petitioner: Through Mr. Khalid Jawed Khan,
Advocate.

Respondents: Through Mr. Ghazi Khan Khalil,
Advocate.

Federation of Pakistan: Through Ms. Mehreen Ibrahim, DAG.

JUDGEMENT

Muhammad Osman Ali Hadi, J: The Petitioner has approached this Court, *inter alia*, challenging the recovery against them by Respondent No.2 / Federation Board of Revenue (“**FBR**”).

2. The Petitioners submit that they had received a Demand Notice dated 10.04.2026¹ under section 137(2) of the Income Tax Ordinance 2001 (“**ITO 2001**”), whereby they were required to pay the FBR an amount of Rs. 822,895,710/- within a period of 30 days (from the date of the Demand Notice).

3. Learned counsel for the Petitioner avers that shortly thereafter, a Notice under section 140 of the ITO 2001 dated 13.04.2026 (“**Impugned Notice**”)² was sent by the Respondents / FBR to the Petitioner’s Bank, seeking direct recovery of the above-stated amount.

¹ Available at Page 57 of the File

² Available at Page 59 of the File

4. Counsel contended that the Petitioner had a period of thirty (30) days within which to make payment pursuant to the Demand Notice, and that such direct recovery initiated by the Respondents through the Impugned Notice (especially prior to completion of the 30-day payment period) negates the entire mechanism and scheme of the ITO 2001. Counsel then submitted that since the recovery was made prior to the expiration of the 30 days stated in the Demand Notice, the Impugned Notice was therefore in derogation of law, and the amounts taken by the Respondents pursuant to the Impugned Notice need to be reversed and returned to the Petitioners. In support of his contentions, he has relied on case law reported as **2026 PTD 192** (*“the LNG Judgement”*) and **2025 PTD 1364**. Additionally, he has referred to another unreported judgement passed by this Division Bench, in C.P No. D-1895/2026, whereby it was held that recovery under section 140 of the ITO 2001 can only follow after a Demand Notice issued under section 137(2) of the ITO 2001 remains unsatisfied.

5. Learned counsel for the Respondents has rebutted the submissions of the Petitioner and states that this matter pertains to recovery of Advance Tax, which falls under section 147 of the ITO 2001. He submits that under the scheme of the ITO 2001, payment of such Advance Tax is statutory requirement, and that no Notice under section 137(2) of the ITO 2001 is required. He further submits that since section 140 of the ITO 2001 is a direct recovery mechanism, it does not require any notice to be issued, as the said form of recovery is separately / independently visualized (under the ITO 2001). He further contends that the methodology of tax collection, relating to payment of Advance Tax, is done on a quarterly cycle, and as such, when the time arrives and the Petitioner's next cycle is examined, any excess amount will be automatically adjusted, and therefore there is no need for interference by this Court as the matter should follow its own statutory path, which will provide the Petitioner with eventual relief,

if they are so entitled. He further submitted that the judgments relied upon by the counsel for the Petitioner do not hold the same interpretation contended by the Petitioner, and that those judgements are not of any assistance to the matter at hand, and cannot to be relied upon.

6. We have heard the learned counsels and have found that the Petitioner did receive a Demand Notice dated 10.04.2026, whereby a (30) thirty days' time-period for payment was given to them by the Respondents. The purpose of the thirty days' time period, as also held through settled precedent, is so that the taxpayer has an opportunity to avail their statutory right of appeal (should they so choose) before at least one independent forum, prior to finality of liability setting in.

7. The recovery under section 140 of the ITO 2001 is an extreme measure, that is to be utilized only in very particular circumstances, i.e. when an undisputedly due payment is not fulfilled. It is also pertinent to state that section 140 of the ITO 2001 provides recovery for *tax due*. The portion relevant for the instant purposes reads:

“140. Recovery of tax from persons holding money on behalf of a taxpayer. -

(1) For the purposes of recovering any *tax due* by a taxpayer, the Commissioner may, by notice, in writing, require any person-----” (*emphasis supplied*)

8. The words *tax due* are of significance. Since the Demand Notice made the tax payment *due* on around 10/05/2026,³ the Impugned Notice being sent on 13.04.2026, had failed to fulfil the essence of section 140 of the ITO 2001, as no tax was *due* until at least the time-period of the Demand Notice was complete on

³ Calculated from 30 days from the date of the Demand Notice which was 10.04.2026

10.05.2026. Therefore, the Impugned Notice (forcing recovery prior to expiration of the 30-day period) being premature, was contrary to the governing provisions of law.

9. Even otherwise, the submissions put forth by the Respondents appear to negate the provisions of section 138 of ITO 2001. Section 138 stipulates that if an amount due to be recovered is not paid within a specified time of the Demand Notice, only then the process of recovery should be followed. The Respondents are attempting to bypass this section by failing to wait for the completion of the time-period given under the Demand Notice, which would upset the scheme of the taxation recovery process provided under law.

10. Such actions are un-condonable, as the same would have the effect of taxpayers losing faith in the system; if the checks and balances provided in the taxation statutes to safeguard unjust actions against taxpayers are flouted by the FBR themselves.

11. In the instant matter, when we confronted learned counsel for the Respondents as to what becomes of the Demand Notice under section 137(2) that was issued if a direct recovery was possible? And what would be the effect of the 30 days' time-period stipulated in the said Demand Notice? Counsel for the Respondents was unable to provide any cogent response. He simply reiterated his earlier stance that recovery in the instant case was directly under section 140 of the ITO 2001, for which there was no requirement at all to send a Demand Notice under Section 137(2) of the ITO 2001.

12. We are unable to agree with this view, as we are of the opinion that once a Demand Notice was issued by the Respondents / FBR, they (the FBR) were duty bound to have waited until the time-period specified in the Demand Notice was completed, before

taking any further action. Failure to do so by the Respondents / FBR has resulted in the Impugned Notice being issued in an unlawful manner.

13. Furthermore, a perusal of Para 10 in the case before the Supreme Court reported as *Commissioner Inland Revenue (Legal) Islamabad v Pakistan LNG Ltd. & Ors.*⁴ (hereinafter referred to as the **“LNG Case”**),⁵ provides a paradox to the stance taken here by the FBR. The relevant portions reads:

“10. Although, the counsel for the Petitioners⁶ stressed on the notice of demand issued under Section 137 of the Ordinance being the only requirement of notice, we find that such understanding is not in consonance with the law. The scheme of law envisions two distinct processes for the purposes of demanding the tax and for the purposes of recovery of tax. A demand notice is served under Section 137 of the Ordinance, whereby the taxpayer is informed of the amount due and is required to pay such tax by the due date set out in the notice. On receipt of notice, the taxpayer can either discharge the liability or challenge it in appeal under Section 127 of the Ordinance. If the liability is discharged the matter ends, however, in the event that an appeal is filed, the first proviso of Section 140 of the Ordinance prescribes that the Commissioner shall not issue notice for recovery of tax due until the appeal is decided.” (emphasis supplied)

14. The above evidences that the FBR contended before the Supreme Court in the *LNG Case* that the only requirement was of issuing a section 137 Notice; whereas in the instant matter the FBR has urged that under section 140 ITO 2001 no prior notice was required to be sent by the FBR to the taxpayer. This contradictory stand taken here by the FBR also does not find favour with us, and creates further doubt on the credibility of the Respondents’ actions.

⁴ 2026 PTD 192

⁵ Which was heavily relied upon by Counsel for the Petitioner

⁶ The Petitioners in the LNG Case were the FBR

15. To further elaborate, the above view of the Respondents is contrary to the scheme of the ITO 2001. If the said submission of the Respondents was to be adhered, then it would result in a clashing consequence. On one hand the ITO 2001 contains provisions stating that a notice of demand is necessary (e.g. section 137[2] of the ITO 2001), whereas the Respondents urge on the other hand a system for direct collection from the taxpayer under section 140 of the ITO 2001 is available to them. If the Respondents' argument as narrated in the latter portion (*supra*) is accepted, it would negate the requirement under section 137[2] of the ITO 2001.

16. In the **LNG Case** this issue was deliberated and settled by the Supreme Court, who opined (relevant portions are reproduced below):

7. We are of the opinion that the clear and unambiguous reading of Section 140 of the Ordinance is that the Commissioner shall issue notice in writing to pay the amount stated in the notice by the date set out in the notice. The language of Section 140 of the Ordinance does not envisage immediate or mechanical recovery rather the provision contemplates that the Commissioner will issue notice and will give a reasonable timeframe for the purpose of recovery. The question of what is reasonable has been considered by the impugned judgement by way of the suggestion that possibly a seven day notice can be considered reasonable however, we are of the opinion that the reasonableness of the timeframe given can be considered on a case to case basis depending on the circumstances and the facts of the case, given that although the legislative intent is to provide for a date, it has not given a statutory notice period before which recovery can be effected. This requirement of setting a date for payment of the tax due places the burden on the Commissioner for substantive compliance and is not a procedural formality. We find that a notice that seeks recovery on the same date as its issuance would defeat the very objective of setting out a date and would render the legal safeguard meaningless. Yet another aspect that is of significance is

the constitutional underpinning of Section 140 of the Ordinance. The requirement of notice before recovery is not merely statutory but reflects the broader guarantees of due process and fair trial under Article 10A of the Constitution², as well as the right to dignity under Article 14. Courts have consistently upheld that even in fiscal matters, recovery must be carried out in a manner that respects the individual's dignity and legal safeguards. Consequently, even where the law allows coercive recovery, it must be carried out in a way that preserves the dignity of the taxpayer.”

9.....“Legal certainty requires not just that taxpayers know they owe tax, but that they are clearly informed of when, how, and on what basis recovery will be pursued. Section 140 gives effect to this requirement by obligating the Commissioner to set out a date for payment, an act that marks the beginning of a legal timeline and protects the taxpayer from arbitrary or immediate enforcement. The statutory framework governing taxation is premised on fairness, notice, and the right to reasonable notice. We reiterate that coercive recovery is bound by law and rules and must work within this framework. By bypassing the statutory requirement to set a payment date, the Commissioner's action undermines the very structure and intent of Section 140 of the Ordinance and undermines the principle of legal certainty embedded within the scheme of law.”

17. A perusal of the above, illustrates the Supreme Court has clarified this issue, and to summarize, they have held that a date for payment of tax is required to be set-out by the taxing authorities (vide a Notice), before any coercive recovery measures are adopted. This is befitting of the scheme envisaged under the ITO 2001, as well as for preserving the dignity of the taxpayer.

18. Accordingly, in consonance with the dictum laid out by the Supreme Court (*ibid.*),⁷ and for reasons elaborated hereinabove, we find the Respondents have acted beyond their legally mandated authority by issuing the Impugned Notice dated 13.04.2026 under section 140 of the ITO 2001, and by taking coercive recovery measures prior to expiration of the due date set out in the Demand Notice. Accordingly, the Impugned Notice dated 13.04.2026 is hereby set-aside, the corollary of which is the collection (if any) of monies made by the Respondents pursuant to the Impugned Notice is also null and void, and is liable to be refunded to the Petitioner with immediate effect.

This Petition is allowed in the aforementioned terms.

Judge

Judge

Ayaz

⁷ Which of course remains binding on us (Ref: article 189 Constitution of Pakistan 1973)