ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-3985 of 2026
(Ali Gohar & Company Pvt Ltd versus Federation of Pakistan and others)

Date	Order with signature of Judge

Before:-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & order: 18.8.2026
Mr. Kuldeep Kumar advocate for the petitioner
Mr. Ameer Nausherwan Adil, advocate for the respondent.
Ms. Mehreen Ibrahim, DAG.

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

> a. *"Declare that the failure of the Respondents to decide the appeal filed by the petitioner is Illegal and unlawful*
> b. *Declare that the Respondents are not entitled to take any coercive or adverse recovery action against the Petitioner in respect of the impugned order/demand dated 25.08.2023 during pendency of the statutory appeal before the Commissioner Inland Revenue (Appeals).*
> c. *Suspend the operation of the impugned demand notice/order dated 25.08.2023 to the extent of recovery proceedings, pending final decision of the appeal filed by the Petitioner before the Commissioner Inland Revenue (Appeals).*
> d. *Restrain the Respondents, their officers, agents, representatives and/or anyone acting on their behalf from initiating, continuing or pursuing any coercive recovery proceedings against the Petitioner, including but not limited to attachment of bank accounts, issuance of garnishee notices, adjustment of refunds, recovery from third parties, freezing of accounts, or any other adverse action in respect of the impugned demand.*
> e. *Direct the Commissioner Inland Revenue (Appeals) to decide the pending appeal of the Petitioner strictly in accordance with law, after providing proper opportunity of hearing, within such reasonable time as may be fixed by this Honourable Court."*

2. The Petitioner, Ali Gohar & Company (Pvt.) Ltd., is a private limited company engaged in distribution and supply-chain operations and is a registered taxpayer. The dispute arose when the Petitioner was issued a notice under Section 122(5A) of the Income Tax Ordinance, 2001, for Tax Year 2022, pursuant to which an order dated 25.08.2023 was passed creating a demand on account of Super Tax. The Petitioner challenged the said order by filing a statutory appeal before the Commissioner Inland Revenue (Appeals), which is still pending. Subsequently, a demand notice under Section 138(1) was issued, requiring payment of approximately Rs.207.7 million as overdue tax/default surcharge. The Petitioner contends that the impugned demand was raised mechanically and unlawfully without properly considering that the issue of Super Tax was subject to judicial proceedings and that the Petitioner had acted bona fide and under the protection of subsisting legal proceedings. The alleged non-payment was neither wilful nor deliberate, and the Petitioner has specifically challenged the legality of the default surcharge, including the manner and date of its imposition. The Petitioner has already availed the statutory remedy and has also filed an

application for stay of recovery. However, apprehending coercive recovery measures, including attachment or freezing of bank accounts, garnishee proceedings, adjustment of refunds and recovery through third parties, the Petitioner seeks protection from this Court. It is submitted that such recovery during pendency of the appeal would frustrate the statutory remedy and cause irreparable loss to the Petitioner's business. Accordingly, the Petitioner seeks a direction for expeditious decision of the pending statutory appeal and restraint against the Respondents from initiating or continuing coercive recovery proceedings in respect of the disputed demand until final adjudication of the appeal, along with any other appropriate relief.

3. Learned counsel for the respondents submits that the appeal of the petitioner has been heard by the Commissioner Inland Revenue (Appeals-II) Karachi and the matter is reserved for decision.

4. When confronted this position of the case learned counsel for the parties seeks disposal of the petition with directions to the Commissioner Inland Revenue (Appeal-II) Karachi to decide the pending appeal which is reserved for decision within 30 days, in accordance with law.

5. In view of the statement made by learned counsel for the Respondents that the Petitioner’s statutory appeal has already been heard by the Commissioner Inland Revenue (Appeals-II), Karachi, and the matter has been reserved for decision, the grievance of the Petitioner stands substantially addressed.

6. Since the Petitioner has already availed the statutory remedy available under the law, this Court, in exercise of its constitutional jurisdiction under Article 199 of the Constitution, would not ordinarily substitute or interfere with the statutory appellate process where the competent authority is seized of the matter.

7. Accordingly, without touching the merits of the case and with the consent of the parties, the instant Constitutional Petition is disposed of with a direction to the Commissioner Inland Revenue (Appeals-II), Karachi, to announce the decision in the pending appeal, which is already reserved for judgment, within **30 days** from the date of receipt of this order. It is clarified that the appellate authority shall decide the matter independently and strictly in accordance with law, without being influenced by any observation contained in this order. No order as to costs.

JUDGE

JUDGE

Shahzad Soomro