

30>31/01)

APPELLATE TRIBUNAL INLAND REVENUE OF PAKISTAN
DIVISION BENCH, MULTAN

ITA No.17/MB/2026
MA (Stay) No. 15/MB/2026
Tax Year: 2019

Mr. Aman U Allah Khan,
Blouch House, Rangpur Road,
Chowk Serwar Shaheed, Muzaffar Garh,
Kot Addu.
Reg No: 3230307659939

...Appellant

Versus

The CIR, RTO, Multan

...Respondent

Appellant by: Mr. Muhammad Imran Ghazi, Adv
Respondent by: Mr. Muhammad Akhtar Suraj, DR

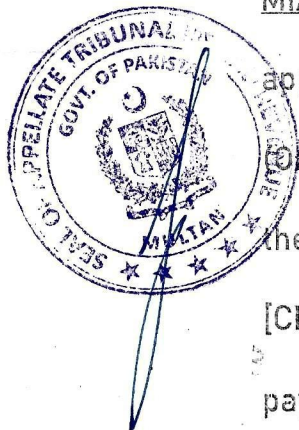
Date of Hearing: 15.01.2026
Date of Order: 15.01.2026

ORDER

MIAN ABDUL BASIT (MEMBER): The taxpayer has filed the instant appeal under Section 131 of the Income Tax Ordinance, 2001 (Ordinance, 2001) to challenge the order dated 12.01.2026, passed by the learned Commissioner Inland Revenue (Appeals-I), Multan [CIR(A)], whereby the previously granted stay was extended subject to payment of 0.5% of the tax demand. The appellant specifically contests the imposition of this condition.

2. On the date of hearing, Mr. Muhammad Imran Ghazi, Advocate, appeared on behalf of the appellant/taxpayer, while Mr. Muhammad Akhtar Suraj represented the respondent/department.

3. The learned Authorized Representative (AR) contended that the conditional stay order dated 12.01.2026 is illegal, arbitrary, and without lawful authority, as it imposes a 0.5% payment despite the earlier unconditional stay granted on 22.12.2025. The AR argued that the



Ordinance, 2001 does not require any deposit at the first appellate stage where the appeal is prima facie arguable. The learned AR submitted Imposition of such a condition without recording independent reasons violates the principles laid down by the Hon'ble Lahore High Court in Muhammad Zubair vs Federation of Pakistan (WP No. 50303 of 2024) Consequently, the AR requested that the 0.5% payment condition be set aside to allow the stay to continue unconditionally until final disposal.

4. The learned Departmental Representative (DR) submitted that the CIR(A) has the jurisdiction to impose any reasonable condition for granting a stay. He contended that the law does not prohibit the CIR(A) from granting a stay subject to payment of a certain amount, and thus, the conditional stay order is justified and legally sustainable.

5. We have carefully examined the record and the submissions of the parties. The facts reveal that a tax demand of Rs. 166,778,356/- was raised under Section 122(1) of the Ordinance, 2001. The taxpayer filed an appeal before the learned CIR(A) under Section 127 and applied for a stay of recovery, which was initially granted unconditionally on 22.12.2025. Upon expiration of the first stay, the taxpayer applied for extension, which was allowed by the impugned order dated 12.01.2026, subject to payment of 0.5% of the tax demand. It is noted that the first stay was granted without any payment condition. Imposing a condition for partial payment for the extension of an already granted stay is therefore unjustified.

6. We do not find any provision in the Ordinance that mandates the CIR(A) to grant a stay subject to any payment. The Hon'ble Lahore High Court in Muhammad Zubair vs Federation of Pakistan (WP No. 50303 of 2024) held that the power to grant a stay under Section 131(5)



cannot be made conditional without statutory authority. Such arbitrary conditions lack legal effect. Furthermore, consistent judicial pronouncements establish that tax recovery should not proceed until the matter is decided by an independent forum outside the tax revenue hierarchy. Reliance is placed on the following judgments:

- Pak-Saudi Fertilizers Ltd. v. Federation of Pakistan (2002 PTD 679)
- Z.N. Exporters v. Collector Sales Tax (2003 PTD 1746)
- Brothers Engineering v. ATIR (2003 PTD 1836)
- Fauji Oil Terminal v. Pakistan (2012 PTD 1762)
- IESCO v. ACIR (2024 PTD 30)


7. In view of the above, the conditional order of the learned CIR(A) requiring the payment of 0.5% of the tax demand for the continuation of the stay is without legal authority and unsustainable under the Ordinance, 2001. Accordingly, the condition imposed by the learned CIR(A) is set aside, and the stay granted on 22.12.2025 shall continue unconditionally until the final disposal of the appeal. The stay application is approved, and the impugned conditional order dated 12.01.2026 is modified to remove the requirement of payment of 0.5% of the tax demand. The appeal filed by the taxpayer is allowed.

8. Both the main appeal and the stay application are disposed of accordingly.

9. This order consists of three (03) pages, and I have affixed my signature on each page.




SHAFQAT ALI
Member


MIAN ABDUL BASIT
Member