JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 2239 OF 2018

Pakistan Telecommunication Company Limited
Versus
Pakistan through Secretary Finance and others.

Petitioner by	**:**	**Mr. Hyder Ali Khan, Advocate.**
Respondents by	**:**	**Mr. Babar Bilal & Mr. Riaz Hussain Bopara, Advocates.**
		Mr. Azmat Bashir Tarrar, A.A.G.
Date of hearing	**:**	**15.04.2026**

MUHAMMAD AZAM KHAN, J. By means of the present constitutional petition, the Petitioner, namely Pakistan Telecommunication Company Limited, calls in question the legality and validity of notice dated 04 May 2018 issued by Respondent No. 4, Deputy Commissioner Inland Revenue, Islamabad, whereby the Petitioner was directed to furnish information purportedly under Section 45(1) of the Federal Excise Act, 2005 (hereinafter referred as "**the Act**").

2. Learned counsel appearing on behalf of the Petitioner submits that the impugned notice is ex facie unlawful, arbitrary, and without jurisdiction. It is contended that the notice has been issued mechanically and without disclosing any reasons necessitating the demand for information, thereby offending the settled principles of transparency and fair administrative action. Counsel further argues that the officer issuing the notice was not legally vested with the requisite authority to invoke the statutory provision relied upon, rendering the entire exercise coram non judice and of no legal consequence. In support of these submissions, reliance has been placed upon the judgment of this Court in *Zaver Petroleum Corporation Limited v. FBR through its Chairman and others*, wherein analogous principles relating to jurisdiction and lawful exercise of statutory powers were considered. It is additionally contended that no meaningful or specific queries were identified in the impugned notice, nor was the Petitioner apprised of the purpose for which the record was sought, as

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required under Section 45(1) of the Act, before compelling production of documents.

3. Conversely, learned counsel appearing on behalf of the Respondents has opposed the petition and submits that the impugned notice was issued strictly in accordance with law by a competent revenue officer in discharge of statutory functions entrusted under the Federal Excise Act, 2005. It is argued that the power to call for information is investigative and regulatory in nature, intended to facilitate verification of tax compliance, and does not require prior adjudication or elaborate reasons at the preliminary stage. Counsel further contends that the Petitioner has an adequate alternate remedy under the relevant fiscal statutes and that constitutional jurisdiction ought not to be invoked to obstruct routine tax administration. It is lastly submitted that the notice neither determines liability nor causes prejudice in itself, and the Petitioner is merely required to furnish information lawfully sought by the department.

4. We have heard the learned counsel for the parties at considerable length, carefully examined their respective submissions, and perused the record made available before the Court.

5. The impugned notice has been issued by the Respondent authority to the Petitioner under Section 45(1) of the Act requiring provision of certain information and production of record. For facility of reference, Section 45(1) of the aforesaid Act is reproduced hereunder: -

> *"45. Access to records and posting of excise staff, etc.— (1) A person who is required to maintain any record or documents under this Act or any other law shall, as and when required by the [officer of Inland Revenue] produce record or documents which are in his possession or control or in the possession or control of his agent and where such record or documents have been kept on electronic data, he shall allow access to such officer to have access and use of any machine on which such data is kept and shall facilitate such officer to retrieve whole or part of such data in such manner and to such extent as may be required by him."*

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6. A careful reading of Section 45(1) shows that the expression "as and when required" does not vest an unrestricted or arbitrary discretion in the tax authorities to demand records at will. The phrase must be interpreted in a reasonable, structured, and lawful manner consistent with constitutional guarantees of fairness and due process. It necessarily implies that records may be called for only when a genuine necessity arises and as circumstances lawfully require, not as a matter of routine, fishing inquiry, or mechanical exercise of power. The word "required" is of particular significance. It denotes an objective need founded upon some relevant purpose connected with the statute, such as verification of a specific transaction, examination of declared liability, investigation based upon tangible material, or scrutiny arising from identified discrepancies. It does not authorize indiscriminate requisitions unsupported by reason or nexus to any pending inquiry. Unless the authority is able to demonstrate a lawful basis necessitating the demand, the statutory threshold of "requirement" remains unsatisfied.

7. Likewise, the phrase "as and when" imports a conditional and situational exercise of power. It contemplates that the authority may invoke the provision only at such time and in such circumstances as are justified by the facts of a particular case. The legislature, by employing these words, did not intend to sanction blanket notices or speculative roving demands for information. Rather, the power is triggered by necessity, not convenience. Therefore, for a notice under Section 45(1) to sustain legal scrutiny, it must disclose, at least in substance, the purpose for which the information is sought and the basis upon which the authority considers such information necessary. In the absence of any disclosed reason, relevant context, or identifiable inquiry, the invocation of the phrase "as and when required" becomes illusory and degenerates into arbitrary compulsion, which the law does not countenance. The above interpretation finds authoritative support in the judgment reported as (2022) 126 TAX 191 (H.C. Kar.), wherein the scope of the phrase "as and when required" was examined in considerable detail. The learned Court observed that this expression is neither redundant nor ornamental; rather, it carries substantive legal significance and

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imposes an inherent limitation upon the exercise of statutory power. The legislature having consciously retained the phrase throughout successive amendments, it must be given its ordinary and purposeful meaning. The Hon'ble Court further held in judgment supra that: -

> *"Since 2010, Commissioner entrusted with the mandate of calling the record as and when required. Now one thing is for sure that this "as and when required" is not meaningless as being consistently followed and maintained throughout. We now need to understand what could be the event or stage when this phrase may come into play and be given some meaning. Eventually when a Commissioner examines the return of a taxpayer, he may have some queries which might be tempting to call record as he may not be able to reconcile and/or resolve them through return statement. Those queries must be understood and settled to the satisfaction of the commissioner before he could make up his mind further. Now the audit is nowhere in the scheme when such questions came for consideration after going through the returns while the Commissioner acts under 25(1) of Sales Tax Act, 1990. Surely the record may satisfy the curious mind but queries must be genuine at the time of calling the record which could not have been answered without going through the record required. Therefore, record calling could not be a roving exercise and cannot be a courtesy call either. The phrase "as and when required" had remained part of Section 25 throughout ever since it was introduced. It is not "as and when desired" but "as and when required". Therefore, the reasons in the shape of "mindful queries" must be in existence and disclosed before calling record for the fulfillment of requirement "as and when required". The requirements of 25(1) are neither unfettered nor are so liberal that a hunting expedition would commence. It is the periodical transfiguration of the provisions of Section 25 that led us believes that there has to be an event or occasion when the Commissioner required the record and documents maintained under this Act or any other Act. Even requiring the documents/record for satisfaction of queries must be revealed so that notice may not transform into a hunting time."*

8. Reverting to the facts of the present case, it is evident that the impugned notice issued by the Respondent authority does not disclose any reason, basis, or underlying material justifying the call for information from the Petitioner. The notice is entirely silent as to what prompted its issuance, what specific issue required verification, or what particular inconsistency or discrepancy was sought to be addressed. It merely invokes the statutory provision in a general manner

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without linking the demand for information to any identifiable "requirement" within the meaning of Section 45(1) of the Federal Excise Act, 2005. As discussed hereinabove, the phrase "as and when required" is not an open-ended authorization for indiscriminate requisition of record; rather, it presupposes the existence of some discernible cause or occasion necessitating the exercise of power. The authority must, therefore, demonstrate that the demand for information is founded upon some objective need arising from examination of material already available or from a specific inquiry lawfully initiated. In the present matter, however, the impugned notice fails to meet this threshold. No "mindful query," no stated discrepancy, and no articulated purpose has been disclosed in support of the demand. The exercise, therefore, appears to be detached from any demonstrated statutory necessity and is bereft of the foundational reasoning required to invoke the power under Section 45(1).

9. In the absence of such reasoning, the impugned notice cannot be said to reflect a lawful satisfaction that the information was "required" within the meaning of the statute. Rather, it assumes the character of a generalized call for information, untethered from any specific inquiry, discernible basis, or justified statutory purpose. In view of the legal position discussed hereinabove, such an exercise falls short of the mandatory statutory threshold and, as such, cannot be sustained in the eyes of law.

10. Accordingly, the instant writ petition is ***allowed*** and the impugned notice is hereby set aside. However, it is clarified that the Respondents shall remain at liberty, if so advised and in accordance with law, to issue a fresh notice, provided that the same is duly supported by reasons and is issued strictly in conformity with the statutory requirements and the principles laid down hereinabove.

(INAAM AMEEN MINHAS)
JUDGE

(MUHAMMAD AZAM KHAN)
JUDGE

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Sajid

Approved for Reporting

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