

**ORDER SHEET**  
**THE HIGH COURT OF SINDH AT KARACHI**  
**HCA No.393 of 2006**

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Date	Order with signature(s) of Judge(s)
<b>Present:</b> <b>Muhammad Ali Mazhar, J.</b> <b>Abdul Maalik Gaddi, J.</b>	
M/s. Binaco Traders	Petitioner
Versus	
Federation of Pakistan & others	Respondents

**18<sup>th</sup> January, 2017.**

None present for the Appellant.  
None present for the Respondents.

**ORDER**

**Muhammad Ali Mazhar, J.** On last date of hearing, direct notice was issued to the appellant as well as the respondents and DAG for today but they are called absent. This appeal is against the judgment and decree passed in Suit No.205 of 2002. Learned Single Judge dismissed the suit. The concluding paragraph is reproduced as under:-

*“In view of the above discussion I hold that the plaintiff ought to have contested the matter before the Customs Authorities instead of filing the present suit which is not maintainable in law on account of the bar contained in Section 217(2) of the Customs Act. However, the plaintiff shall be free to approach the appropriate forum and only upon succeeding in establishing its claim that the value of the goods was not understated, that the plaintiff shall become entitled to file suit for damages. At this stage it is premature. With these observations, this suit is dismissed.”*

2. Under sub-section (2) of Section 217, it is clearly provided that no suit shall be brought in any civil court to set-aside or modify any order passed, any assessment made, any tax levied, any penalty imposed or collection of any tax made under this act, while first

prayer in the plaint was made for declaration that assessment of the defendants of the goods according to the offer of higher value made by the local manufacturer/trader/importer was illegal, without jurisdiction and also against the provisions of Section 25 and 25-A of the Customs Act, 1969. The further prayers are also in relation to the assessment of the value of subject goods. We are totally in agreement with the findings of learned Single Judge that the plaintiff should have contested the matter before the Customs Authorities rather than filing this civil suit. It was further observed in the impugned judgment that the plaintiff is free to approach appropriate forum and only upon succeeding in establishing its claim that the value of the goods was not understated, the plaintiff shall become entitled to file a suit for damages, therefore, at the time, when this suit was filed and dismissed, learned Sindh Judge found it premature. We do not find any illegality or irregularity in the impugned judgment, therefore, this high court appeal is dismissed.

JUDGE

JUDGE

*Faizan/PA\**