

Suit No.1797/2017

1. For orders on CMA No.10830/2017

2. For orders on CMA No.10831/2017

04.08.2017

Ms. Sofia Saeed, advocate for the Plaintiff.

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1. Urgency application is granted.
2. However, in view of the judgment passed by a Division Bench of this Court in High Court Appeal No.263/2016 and several other connected appeals, the learned counsel does not press this suit since, it hit by the following orders in HCAs:-

- (i) In view of specific bar provided in terms of Section 217 of the Customs Act, 1969 and the exclusion of jurisdiction of civil Courts in terms of Section 9 of the Civil Procedure Code, 1908, any dispute relating to determination and assessment of duty and taxes under Customs Act, 1969 or Sales Tax Act, 1990, Income Tax Ordinance, 2001 and Federal Excise Act, 2005, as well as a dispute under the Sindh Sales Tax on Services Act, 2011, cannot be agitated by filing a suit before a Civil Court or learned Single Judge of this Court while exercising original civil jurisdiction, therefore, impugned judgment(s) and decree(s) are hereby set-aside and instant High Court Appeals are allowed.
- (ii) A Civil Court constituted under (West Pakistan) Civil Courts Ordinance, 1962 duly amended by Sindh Civil Court (Amendment) Ordinance, 2002 and Sindh Civil Court (Amendment) Act, 2010, has not conferred with any jurisdiction under the Constitution or any other law to entertain or decide a dispute relating to determination and assessment of duty and taxes under special taxation laws including Customs Act, 1969, Sales Tax Act, 1990, Income Tax Ordinance, 2001 and Federal Excise Act, 2005, as well as under the Sindh Sales Tax on Services Act, 2011, therefore, cannot be treated as a Civil Court of ultimate jurisdiction for the purposes of deciding any controversy arising or relatable to the aforesaid taxing statutes. Accordingly, assumption of jurisdiction by a civil court including the Court of learned single Judge of High Court in the instant matters, while exercising original civil jurisdiction, is without lawful authority, hence the impugned judgment(s) and decree(s) are hereby set-aside, and the instant High Court Appeals are allowed.

Learned counsel states that the instant suit has already been filed by her before the announcement of the aforementioned judgment, therefore, she does not want to press instant suit with permission to file a constitution petition. Learned counsel prays for return of the Court fee.

The suit is dismissed as withdrawn. Office is directed to return the Court fee.

JUDGE

SM