ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.809/2010

DateOrder with signature of Judge1.For hearing of CMA No.5327/2010 (U/o. 39 Rule 1 & 2 CPC)2.For Final Disposal against Defendant No.2.

11.08.2017

Mr. Ahmer, advocate holding brief Mr. Khalid Javed Khan, advocate for the Plaintiff. Mr. Salimuddin A. Patoli, Asstt: Attorney General.

This suit is fixed for final disposal. Learned counsel was asked that how this suit is maintainable. He concedes that there is judgment of Division Bench of this Court passed in High Court Appeal No.263/2016 and several other connected appeals. This suit is covered by the following orders in said 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.

In view of the above, this suit is dismissed alongwith all pending applications.

JUDGE

SM