

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No.2417 of 2016
Suit No.1101 of 2016

Date

Order with signature of Judge

Present:

Mr. Justice Muhammad Ali Mazhar

1. **Suit No.2417 of 2016**

M/s. Huffaz Seamless Pipe Industries Ltd.....Plaintiff

Vs.

Federation of Pakistan & others.....Defendants

2. **Suit No.1101 of 2016**

M/s. Huffaz Seamless Pipe Industries Ltd.....Plaintiff

Vs.

Federation of Pakistan & others.....Defendants

02.05.2017

Mr. Ahmed Ali Hussain, Advocate for Plaintiffs.

Mr. Sarfaraz Ali Metlo, Advocate for

Defendant Nos.1, 2, 3 & 5 in Suit No.2417/2016.

Mr. Javed Hussain, Advocate holding brief for

Ms. Masooda Siraj, Advocate for Defendant No.4

in Suit No.2417/2016 and for Defendant Nos. 3 to 6
in Suit No.1101/2016.

Mr. Abdul Qadir Laghari, Assistant Attorney General.

Muhammad Ali Mazhar, J: In fact in both the suits the plaintiff is the same and they have challenged the show cause notices. In Suit No.2417/2016, the plaintiff has challenged the show cause notice issued under Section 11 of the Sales Tax Act, 1990 r/w Section 14 of the Federal Excise Act, 2005 by Deputy Commissioner Inland Revenue, Audit Unit No.03. The show cause notice was issued on 10.10.2016 whereas in Suit No.1101/2016 the same plaintiff has challenged the show cause notice issued under Section 11(2) of the same Sales Tax Act, 1990 which was

issued by the Assistant Commissioner-IR on 20.04.2016. Before moving ahead, the learned counsel for the Tax Department pointed out the consent order dated 29.08.2016 passed in C.P. No.D-7583/2015 in which the plaintiff had challenged the raids conducted by the Directorate of Intelligence & Investigation to be unlawful. This petition was disposed of in the following terms:

“After arguing the matter at some length, by consent of learned counsel for the parties, instant petition is disposed off with the direction to the respondent to issue proper Show Cause Notice to the petitioner, which shall be responded by the petitioner, thereafter, appropriate order may be passed strictly in accordance with law. In the meanwhile, the server of the petitioner, which is in possession of the respondent may be returned after obtaining the data and copies to enable the petitioner to submit response to the queries of the respondent department. Instant petition is disposed off on the above terms alongwith listed application.

It is expected that such exercise shall be completed preferably within a period of one month from the date of this Order.”

The learned counsel for the Tax Department submits that despite clear order passed in the constitution petition, the plaintiff has again approached this court and obtained the interim order. On the contrary the counsel for the plaintiff argued that despite giving his consent in the division bench order for returning the server and other record to the plaintiff which is in possession of the Directorate of Intelligence & Investigation, no such effort was made by them to return the same after obtaining the data and copies so that the plaintiff might be able to submit the reply to the show cause notices. Mr. Sarfaraz Ali Metlo, counsel for defendant Nos.1, 2, 3 & 5 in Suit No.2417/2016 submits that the plaintiff’ representative never came to collect the server/computers and other documents. Again

the counsel for the plaintiff submits that despite repeated approaches, no positive result could be achieved. Since the order of the division bench is already in field which was passed by consent, therefore, both the suits are disposed of by consent in the following terms:

1. The plaintiffs' representative will approach the Director Intelligence & Investigation and after logging in the computer, the Intelligence Department may retain the hard copies/soft copies of data and copies of books of accounts/ledgers etc. in their possession thereafter the entire documents and computers will be returned back to the plaintiff according to the inventory which was prepared at the time of raid.
2. After receiving the documents and computers, the plaintiff shall submit the reply to the show cause notices. On providing proper opportunity of hearing to the plaintiff, the order will be passed in accordance with the law. The reply to the show cause notices shall be submitted by the plaintiff within fifteen days' time.
3. The learned counsel for the Tax Department assured that if in both the show cause notices there is same and common issue, the same shall not be adjudicated twice. All pending applications are also disposed of.

Judge

Asif