ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit Nos. 2088/2015, 270, 620, 1189, 1502, 1944, 2065, 2419, 2789 of 2016 and 1573 of 2017

Date Order with signature of Judge

Before:-
Mr.Justice Muhammad Ali Mazhar

(1) Hum TV & others
(2) Bayer Pakistan (Pvt) Ltd. & others.
(3) Port Grand Limited & others.
(4) M/s. Pakistan Cables Limited & others.
(5) M/s. Allport Cargo Services (Pvt) Limited & others.
(6) M/s. OCS Pakistan (Pvt) Ltd., & others
(7) M/s. Trade Development Authority of Pakistan.
(8) M/s. Shan Foods (Pvt.) Ltd., & another.
(9) M/s. Hussain Pharmacy Inc.,
(10) M/s. Lucky Electric Power Company Ltd…………Plaintiff

Versus

Province of Sindh & others ……………………………Defendants

28-03-2018

Mr.Umair A. Qazi and Mr.Atir Aqeel Ansari, Advocate for the Plaintiffs.
Mr.Shamshad Ahmed, Advocate for Sindh Revenue Board.
Syed Zainul Abideen, Deputy Commissioner, Sindh Revenue Board.

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Muhammad Ali Mazhar, J: The plaintiffs in the aforesaid suits have prayed that the activity of renting of immoveable property per se as defined in Section 2(72B) of Sindh Sales Tax on Services Act, 2011 is not taxable service, therefore, the plaintiffs being landlords/tenants of immovable properties are not liable to be taxed under this Act. This court as an interim measure ordered that no coercive action shall be taken against the plaintiffs.

2. During pendency of these suits learned Division Bench of this court rendered their judgment on identical issue on 18.8.2017 in C.P.No.D-2421/2016 and some connected petitions. The learned Division Bench in paragraph 16 of the judgment held as under:-

> "16. In view of hereinabove facts and circumstances of the case, we are of the considered opinion that the impugned notices issued by the respondents to the petitioners, while treating the renting of immovable property as taxable service, chargeable to tax under Sindh Sales Tax on Services Act, 2011, have been issued without lawful authority. It is hereby declared that mere letting out of an immoveable property by the landlord to a tenant on rent for consideration does not involve any element of providing any taxable services, therefore, the amount of rent received by the landlord from the tenant cannot be subjected to tax, while invoking the provisions of Section 2(72C) read with Tariff Heading 9806.3000 of First Schedule and Part-B of the Second Schedule to the Sindh Sales Tax on Services Act, 2011. Accordingly, above petitions are allowed in the aforesaid terms alongwith listed applications."

3. Learned counsel for the plaintiffs argued that since the point in issue has already been settled by the learned Division Bench and the judgment has already been passed, therefore, they request that their suits may also be disposed of on the same terms. Learned counsel for the Sindh Revenue Board confirms this position, however, he submits that appeal has been filed in the apex court wherein no restraining order has been passed but leave has been granted. He endorsed his no objection if the aforesaid suits are disposed of on the same terms. By consent these suits are disposed of accordingly along with pending applications.

At this juncture, counsel for the plaintiff submits that in the list submitted by him instead of Suit No.1796/2015 due to typographical mistake he has mentioned Suit No.1796/2017. Office is directed to fix Suit No.1796/2015 on 30.3.2018, so that the said suit may also be disposed of in the above terms.

Judge

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