

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.1796 of 2015
Suit No.1094 of 2016

Date _____ Order with signature of Judge _____

Before:-
Mr.Justice Muhammad Ali Mazhar

Suit No.1796 of 2015

MCR (Pvt.) Ltd. & another.....Plaintiffs

Versus

Province of Sindh & othersDefendants

Suit No.1094 of 2016

Fauji Fertilizer Company Ltd.....Plaintiff

Versus

Province of Sindh & another.....Defendants

30.03.2018

Mr. Umair A. Qazi, Advocate for the Plaintiffs
in Suit No.1796/2015.
Mr. Umair A. Qazi, Advocate holding brief
for Mr. Anwar Kashif, Advocate for the Plaintiff
in Suit No.1094/2016.
Mr. Shamshad A. Narejo, Advocate for S.R.B.

Muhammad Ali Mazhar, J: The plaintiffs in the aforesaid suits have prayed that the activity of renting of immovable 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 immovable 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.

Office is directed to place copy of this order in the connected suit listed above.

Judge

