

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit Nos. 2117/2015, 604, 276,
1038, 1619, 2261 of 2016 and
360 of 2017

Date

Order with signature of Judge

Before:-

Mr.Justice Muhammad Ali Mazhar

- (1) Engro Corporation Ltd. & others
- (2) Engro Elengy Terminal (Pvt.)_ Ltd. & others.
- (3) Summit Bank Limited & others.
- (4) Dollar Industries (Pvt.) Ltd. & others
- (5) Mrs.Bilkis Ali Hussain
- (6) Gul Ahmed Textile Mills Ltd. & others.
- (7) Engro Powergen Thar (Pvt.) Ltd. & another.....Plaintiff

Versus

Province of Sindh & anotherDefendants

20-04-2018

Mr.Khalid Jawed Khan, Advocate for the Plaintiffs.
Mr.Shamshad Ahmed, Advocate for Sindh Revenue Board.
Syed Zainul Abideen, Deputy Commissioner, Sindh Revenue Board along with Mr.Ali Ahmed Turrabi and Mr.Faisal Rauf, Advocates
Ms.Saima Imdad, AAG

Muhammad Ali Mazhar, J: The plaintiffs in the aforesaid suits have prayed that the activity of renting out 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 the same issue on 18.8.2017 in C.P.No.D-2421/2016 and some connected petitions. For the ease of reference paragraph 16 of the judgment is reproduced 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, he requests that aforesaid suits may be disposed of on the same terms. The Deputy Commissioner, Sindh Revenue Board and their counsel have confirmed this position, however, they submit that appeal has been filed in the apex court but no restraining order has been passed, however, leave has been granted. They endorsed their no objection if the aforesaid suits are disposed of on the same terms. By consent the aforesaid suits are disposed of accordingly along with pending applications.

Judge

