

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI

C.P.No.D-375 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

Before:-
Mr.Justice Muhammad Ali Mazhar
Mr.Justice Agha Faisal

Masood Ahmed and another.....Petitioners

Versus

Pakistan & others.....Respondents

02-05-2019

Mr.Mushtaq Ahmed, Advocate for the Petitioners.

Petitioner No.2 is also present.

Mr.Mohsin Imam, Advocate for the respondent No.2

Mr.Kafeel Ahmed Abbasi, D.A.G.

S.M. Jamal, I.O. and Mr.M.Azam Nafees, Assistant Director (Audit)

I & I, Inland Revenue are present in person.

Muhammad Ali Mazhar, J. On the last date of hearing we recorded the contention of learned counsel for the petitioners that the petitioner No.1 is proprietor of Raja and Company and he is also father of petitioner No.2 who is running his separate business in the name and style of Well Traders. Learned counsel had also pointed out the record of resumption memo available at page-23 of the court file and according to him the raid was conducted at the premises of the petitioner No.1, who is a separate businessman. For this clarification we asked the learned counsel for the Tax Department to call the concerned officer. Today, S.M. Jamal, I.O. and Mr.M.Azam Nafees, Assistant Director (Audit), I & I, Inland Revenue are present in person and they have brought documents mentioned in the resumption memo. They clearly stated that they have in fact taken the record of M/s.Raja & Co. and not the Well Traders. We have also provided an opportunity to the counsel

for the petitioners to go through the record and in the second round we taken up this matter. The petitioner No.2 is also present who has also gone through the record brought by the officers of Tax Department in court. The petitioners have also challenged the vires of Section 175, 208(2), 209(2) and 230(2) of the Income Tax Ordinance, 2001, but when we confronted learned counsel for the petitioners to demonstrate the unconstitutionality in the above provisions, he frankly stated that petitioners are not interested to challenge the vires, however, he submits that no proper opportunity was provided to the petitioners to place their point of view before the concerned authority. Learned counsel for the Tax Department with the assistance of the officers of Tax Department present in court argued that the matter is at inquiry stage and no order has been passed against the petitioners, however, after completion of inquiry the matter will be referred to the respondent No.3 for further proceedings at their end. Learned counsel for the petitioners on instructions agrees that they will submit their reply in the inquiry where they may be allowed to take all grounds and objections and during inquiry fair opportunity of hearing be provided.

2. As a result of above discussion, the petition is disposed of in the terms that the petitioners may file their reply to the concerned authority and during inquiry they will be provided ample opportunity of hearing and no action shall be taken till such time the inquiry is completed, however after completion of inquiry the action or further proceedings, if any, may be taken in accordance with law.

Judge

Judge

