

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
**Muhammad Junaid Ghaffar, J.**  
**Agha Faisal, J.**

CP D 4633 of 2017 : Waste Busters Limited vs.  
Province of Sindh & Others

For the Petitioner : Mr. Ameer Bux Maitlo, Advocate

For the Respondents : Mr. Jawad Dero  
Additional Advocate General

Mr. Shamshad Ahmed, Advocate

Date of hearing : 08.03.2021

Date of announcement : 08.03.2021

## JUDGMENT

**Agha Faisal, J.** The present petition has been filed seeking to challenge deduction of sales tax from a bill, pursuant to a contract between two parties. In essence the writ jurisdiction of this Court has been invoked rested on a private commercial invoice, a copy of a cheque and an unsigned breakup of amounts, allegedly demonstrating the assailed differential of Rs. 62,430/- between the invoice and the payment; purportedly giving rise to the petitioner's present grievance in respect of its contract.

2. At the very onset the petitioner's counsel was required to address the Court with respect to the maintainability of the petition as the matter *prima facie* appeared to be a contractual dispute and any grievance ought to have been taken up with the contractual counterpart, of which there remains no corroboration on record, at the first instance. The counsel remained unable to articulate any cogent argument in such regard.

3. It is settled law<sup>1</sup> that contractual disputes did not merit adjudication vide recourse to writ jurisdiction. In the recent *Abdul Sattar Arbani case*<sup>2</sup> the august Supreme Court reiterated that it remains settled law that such factual controversies are not amenable to resolution before the Constitutional jurisdiction of the High Courts.

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<sup>1</sup> *AKD Investment Management Limited & Others vs. JS Investments Limited & Others (CP D 5016 of 2019).*

<sup>2</sup> *Per Mushir Alam J in Province of Sindh vs. Abdul Sattar Arbani (CP 654-K of 2018) & connected matters.*

4. It is also noted that the primary grievance appears to be a private contractual matter, between parties to the contract, and the official respondents seem to have been impleaded to seek the adjudication of the grievance before this court, in the exercise of its writ jurisdiction. A Division Bench of this High Court, in *Muhammad Saddiq case*<sup>3</sup>, had deprecated the invocation of the writ jurisdiction in private disputes and had held that such action, merely to overcome objections of the branch with respect to maintainability, cannot but be disapproved. A subsequent Division Bench has also maintained<sup>4</sup> that the masquerade of pleadings to invoke the Constitutional jurisdiction of this court is undesirable.

5. In view of the reasoning and rationale herein contained, we are of the considered view that this petition is misconceived, hence, the same, along with pending application/s, is hereby dismissed.

JUDGE

JUDGE

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<sup>3</sup> *Muhammad Saddiq & Another vs. Ruqaya Khanum & Others* reported as PLD 2001 Karachi 60.

<sup>4</sup> *AKD Investment Management Limited & Others vs. JS Investments Limited & Others* reported as 2020 CLD 596.