

ORDER SHEET

HIGH COURT OF SINDH AT KARACHI

C.P. No.D-511 and 1973 of 2019

Date

Order with signature of Judge

20.4.2022.

Mr. Taimur Ahmed Qureshi, Advocate for the petitioner.

Mr. Kafeel Ahmed Abbasi, DAG for respondent No.1.

Syed Mohsin Imam, Advocate for the respondents No.2 to 6.

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The instant petitions have been filed on the ground that the petitioners received notices dated 31.12.2018, 24.01.2019, 01.03.2019 and 19.03.2019 from the respondent No.6 under Sections 176, 177(1) and 121(1) of the Income Tax Ordinance 2001 (**the Ordinance**). The petitioners thereafter furnished reply by challenging the jurisdiction of the respondent No.6 for issuing the said notices; mentioning therein that even if the department possessed some material against the petitioners, it is only the officer holding jurisdiction over the petitioners who can initiate proceedings and not the respondent No.6.

Mr. Taimur Ahmed Qureshi, Advocate has appeared on behalf of the petitioners and has reiterated his above submissions and stated that on the face of it, the impugned notices are illegal, uncalled for and without jurisdiction, hence the same may be vacated.

Syed Mohsin Imam, Advocate appearing on behalf of the department has stated that proceedings initiated against the petitioners purportedly have been withdrawn and if some material against the petitioners is available, the concerned officer holding the jurisdiction over the petitioners' matter would initiate the proceedings against them.

Mr. Kafeel Ahmed Abbasi, learned DAG appearing on behalf of the Federation has adopted the arguments of Syed Mohsin Imam, Advocate for the respondents.

We have heard all the learned counsel at some length and have perused the record.

Since it has come on record that the respondent No.6 has no jurisdiction to make any assessment and to proceed against the petitioner even if there is any material against them hence, in our view, it is only the officer holding jurisdiction over the petitioners' matter who can issue notice or initiate proceedings against them, if the said officer has any material against the petitioners, in accordance with the relevant provisions of the Ordinance but not the respondent No.6 as has done in the instant matter. We, therefore, without indulging ourselves in other aspects of the matter, allow these petitions by holding that the respondent No.6 has no jurisdiction to inquire from the petitioners with regard to any discrepancy or any material against them as it is only the officer holding jurisdiction, where the petitioners submit their returns of total income, can initiate proceedings against them in accordance with law. These petitions thus are allowed and the impugned notices issued to the petitioners by the respondent No.6 are hereby vacated.

JUDGE

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