

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
 Suit No. 861 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on CMA No.5395/17 (if granted)
2. For orders on CMA No.5396/17 (U/S 151 CPC.)
3. For orders on CMA No.5397/17 (U/O 39 Rule 1 & 2 CPC.)

01.04.2017

Mr. Umair A. Qazi, Advocate for Plaintiff.

1. Granted.
2. Granted subject to all just exceptions.
3. Through this Suit for Declaration, Permanent Injunction and Damages, the Plaintiff has impugned Authorization dated 31.03.2017 read with vires of SRO 115(I)/2015 dated 09.02.2015. Learned Counsel for the Plaintiff submits that pursuant to the alleged Authorization dated 31.03.2017, the Defendant No.2 and its Officers duly armed raided the Office of the Plaintiff and have taken away the documents and Tax records and various other materials as mentioned in the Record Resumption Memo available at Page 53. He submits that raid was conducted on the Defence Campus of the Plaintiff University when classes were being held at full strength, resultantly it has caused harassment, besides being aggressive and hostile. Learned Counsel submits that first of all the Defendant No.2 and or its Officers have no lawful authority and power under Section 175 of the Income Tax Ordinance, 2001 to conduct such raid as the Ordinance confers such powers, if any, on the Commissioner having jurisdiction in the matter. He submits that notwithstanding this objection, even in terms of SRO No.115(I)/2015, the Director General is the appropriate authority to delegate any such authorization. Per

learned Counsel the wordings of SRO No.115(I)/2015 have been challenged inasmuch as the same intends to override the mandatory provisions of Section 175, which only authorizes the Commissioner, whereas, by purportedly exercising powers under Section 230 of the Ordinance, provisions of Section 175 ibid cannot be overridden, amended or altered. He has also referred to FBR's Letter dated 22.2.2017, which provides that as per directions of Chairman FBR, henceforth, action under Section 175 of the Ordinance shall be exercised after taking proper and written administrative approval of the concerned Chief Commissioner and such approval shall contain reasons in this regard. According to the learned Counsel the same is completely missing in this case. He has also relied upon order(s) dated 25.11.2015 passed in Suit No.Nil of 2015 and order dated 7.3.2016 in Suit No. 582 of 2016, whereby under similar circumstances, restraining orders were passed. He further submits that the raid which was conducted yesterday was done at the Defence Campus, whereas, the purported Authorization also allows to raid at other Campuses of the Plaintiff, hence instant Suit.

Let notice be issued to the Defendants as well as DAG for 14.04.2017. Till the next date of hearing, the Defendants shall not take any coercive action and no further proceedings including any further raid on other campuses shall be initiated against the Plaintiff pursuant to the authorization dated 31.3.2017 and on the basis of resumed documents as mentioned in the Record Resumption Memo.

J U D G E

Ayaz P.S.