

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.1579 of 2016

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on CMA No.10267/16 (if granted)
2. For orders on CMA No.10268/16 (U/O 39 Rule 1 & 2 CPC.)

28-06-2016

Ms. Amber Lakhani, Advocate alongwith Mr. Khalid Jawed Khan, Advocates for the plaintiff.

1. Granted.
2. Through this Suit for declaration and permanent injunction, the plaintiff has impugned Show Cause Notices dated 25.06.2015 and 26.06.2015 as well as the Orders passed by the Federal Tax Ombudsman dated 16.11.2015 and 29.01.2016 and the Order of the President dated 21.06.2016. Counsel for the plaintiff submits that upon a complaint by Transparency International Pakistan (TIP), two separate Show Cause Notices had been issued to the plaintiff, which were impugned before the F.T.O and thereafter, T.I.P withdrew its complaint by submitting its Letters to the learned F.T.O. Counsel submits that subsequently an Order dated 16.11.2015 was passed by the FTO in which partial relief was allowed to the plaintiff and upon a review application another Order dated 29.01.2016 was passed, whereby, the impugned Show Cause Notices have been declared as arbitrary and unjust. She submits that despite such finding the learned F.T.O treated the Show Cause Notices as Notices under Section 176 of the Income Ordinance, 2001 and Section 38-B of the Sales Tax Act, 1990 for which learned F.T.O had no jurisdiction. She further submits that such order(s) were impugned by filing Representation under Section 32 of the F.T.O Ordinance, 2000 before the President and through impugned Order, though it has been observed by the President that Show Cause Notices inter-alia were admittedly issued on the basis of an erroneous entry in PRAL system by FBR, however, certain directions have still been given to the Department to proceed further with the Show Cause Notices. She submits that once it has been held that Show Cause Notices are arbitrary and issued on an erroneous assumption, no further proceedings could be taken up by the defendants.

Let notice be issued to the defendants and DAG for 11.07.2016. Till the next date of hearing, the defendants No.2 & 3 shall not proceed any further with the impugned Show Cause Notices dated 25.06.2015 and 26.06.2015.

J U D G E

Ayaz P.S.