

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. D-2464 of 2021

Date	Order with Signature(s) of Judge(s)
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Priority

1. For hearing of C.M.A. No. 10626/21.
2. For hearing of main case.

13.10.2022

Mr. Mushtaque Hussain Qazi, Advocate for petitioner.
Mr. Ameer Bakhsh Metlo Advocate for respondents No. 2 to 4.
Mr. G. M. Bhutto, Assistant Attorney General.

The instant petition was filed by challenging Show Cause Notice dated 12.11.2020. We have also been informed that assessment order under section 122(5) of the Income Tax Ordinance, 2001 has also been made on 06.04.202 by the department. Quite recently this Court vide order dated 03.03.2022 in C.P. No. D-4046 of 2021 has observed as under:-

“We are of the view that the correct procedure available with the petitioner is to give a proper reply to the show cause notice issued by the department but the department while proceeding with the show cause notice, would assess the value of the foreign assets declared by the petitioner strictly in accordance with law as per Section 2(d) read with Section 5 of the Foreign Assets (Declaration and Repatriation) Act, 2018. The department, however, in our view, would be at liberty to assess market value of those assets for which protection under Act, 2018, was not sought.

With these directions the instant petition along with listed application stands disposed of.”

We have been apprised that since an assessment order has been passed and that no appeal against the said order has been preferred the said assessment order is holding the field and until and unless the same is reversed under the law, the demand created against the petitioner in the said order would remain payable.

In our view since some observations have been made in the above referred petition, which could be applied in the above matter as well. The petitioner, if so advised, can move a rectification application under section 221 or an application under section 122(a) of the Ordinance to the department by bringing the above

referred observations in the knowledge of the departmental authorities, who after going through the said observations would pass order in accordance with law within thirty (30) days from the date of receipt of those applications. It is clarified that if the departmental authorities rectify their order the grievance of the petitioner could be redressed, however, if the said departmental authorities refuse to rectify the same, the petitioner would be at liberty to avail his remedy by filing an appeal against the said order before the appellate authority in accordance with law.

With these directions the instant petition, alongwith the listed application, stands disposed of.

JUDGE

JUDGE

Athar Zai