

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. NO. D-5003 / 2019 a/w  
C. P. NO. D-3662 to / 3665 2019

Date

Order with signature of Judge

**PRIORITY.**

- 1) For hearing of CMA No. 21848/2019.
- 2) For hearing of main case.

**13.02.2023.**

Mr. Jam Zeeshan, Advocate for Petitioners.  
Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General.  
M/s. Dr. Shah Nawaz & Fozia M. Murad,  
Advocates for Respondents.

Through these Petitions, the Petitioners have impugned respective Show Cause Notice(s) issued by the Respondents and it has been contended on their behalf that Input Tax claimed on certain services rendered to the Petitioners has been denied through impugned Show Cause Notices and such conduct on the part of the Respondents is ultra vires to the Constitution and provisions of Section 7 & 8 of the Sales Tax Act, 1990. However, while confronted, he has not been able to point out any jurisdictional issue and as to the competence of the officer who has issued the impugned notice(s).

After going through the record and hearing the learned counsel for the petitioner we are of the view that it is not for this Court to decide the controversy in hand, which apparently relates to the alleged denial of input tax claimed by the petitioners, if any, whereas admittedly it is not a case of any jurisdictional defect or the competency of the concerned officer. If at all, even if a legal question is raised, it is not mandatory upon the Court to entertain a Constitutional petition in all run of the mill cases; rather, the discretion vested in the Court has to be exercised with restraint and not as a matter of routine. Therefore, in our considered view, a mere show cause notice by itself is not a ground to invoke Constitutional jurisdiction of this Court, and the petitioners ought to have approached the respondents for raising all such legal issues. Per recent announcement in *Jehangir Khan Tareen*<sup>1</sup> this tendency has been deprecated by the Hon'ble Supreme Court by holding that Abstinence from interference at the stage of

<sup>1</sup> 2022 S C M R 92 COMMISSIONER INLAND REVENUE V JAHANGIR KHAN TAREEN

issuance of show cause notice in order to relegate the parties to the proceedings before the concerned authorities must be the normal rule. The facts of the present case are one, which fully attract the ratio of the said judgment.

In view of herein above facts and circumstances of the case, all these petitions are disposed of by directing the petitioners to respond to the show cause notices, (if not already done) by raising all factual and legal issues which have been agitated through instant petitions and the respondents thereafter shall pass an appropriate order in accordance with law after providing opportunity of personal hearing to the petitioners. Since these petitions are pending from 2019 let such exercise be carried out by the concerned respondents preferably within a period of sixty (60) days from today.

With these observations, all these Petitions are disposed of. Office is directed to place copy of this order in connected matters.

**J U D G E**

**J U D G E**

Arshad/