

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP D 280, 281, 282 & 283 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of CMA No.1099/2021
2. For hearing of main case.

16.01.2023.

Mr. Jawad A. Qureshi, Advocate for the Petitioner
Mr. Irfan Mir Halepota, advocate for respondent
Mr. G.M. Bhutto, Assistant Attorney General

Through all these petitions the petitioner has impugned Show Cause Notice(s) for the different tax years issued under section 122(9) of the Income Tax Ordinance, 2001, and learned Counsel submits that that through impugned notices the respondents intend to give a different treatment as to the application of turnover tax and distribution as well as wholesale retail turnover on the ground that the earlier order(s), whereby, some other treatment was accorded, was erroneous and prejudicial to the interest of Revenue. He, further submits that the impugned notice(s) do not state any reason(s) for giving a different treatment to as against the earlier stance of the department. 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 Assessment Order and its intended amendment, if any, whereas admittedly it is not a case of any jurisdictional defect or the competency of the concerned officer. 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 petitioner ought to have approached the respondents for raising all such legal issues. Per recent announcement in *Jehangir Khan Tareen*¹ this tendency has been deprecated by the Hon'ble Supreme Court by holding that Abstinence from interference at the stage of issuance of show cause notice in order to relegate the parties to the proceedings before the concerned authorities must be the normal rule. The

¹ 2022 S C M R 92 COMMISSIONER INLAND REVENUE V JAHANGIR KHAN TAREEN

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 petitioner. Since these petitions are pending from 2021 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

Amjad/PA