

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Suit No. 797 of 2023
[Syed Abu Bilal Imam v. Federation of Pakistan & others]

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of CMA No 8311 of 2023.

18-12-2023

Mr. Mirza Moiz Baig, Advocate for the Plaintiff.
Syed Ahsan Ali Shah, Advocate for the Department-FBR.
Mr. Ghulam Asghar Pathan, Advocate for Defendant No.3.
Mr. Mobashir Mirza, Assistant Attorney General.

Adnan Iqbal Chaudhry J. - The Plaintiff has challenged a summons issued to him by the Assistant Director, Directorate of Intelligence & Investigation–Inland Revenue under section 37 of the Sales Tax Act, 1990, calling upon him to appear for a hearing along with information/documents in relation to an on-going inquiry into the use of fake/flying sales tax invoices. The case of the Plaintiff is that while he has and will provide the said officer all documents so required, his apprehension is that the summons is ground-work being laid by said officer to suspend the sales tax registration of the Plaintiff.

It is not the Plaintiffs case that the summons is without jurisdiction or that the underlying inquiry is without jurisdiction. Rather the Plaintiff apprehends consequences on culmination of an inquiry which consequences may or may not ensue. Firstly, and as observed by a learned Division Bench of this Court in *Sahib Din Logistics v. Federation of Pakistan* (2021 PTD 1245), that is not sufficient to constitute a cause of action against a summons issued under section 37 of the Sales Tax Act. Secondly, the said inquiry is deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code, which may also culminate in criminal proceedings, and section 56(e) of the Specific Relief Act prevents a civil court from staying a criminal matter.

At this juncture Mr. Ghulam Asghar Pathan, Advocate for the Department states that any action that the Department takes

pursuant to the inquiry will be strictly in accordance with the law. With that statement learned counsel for the Plaintiff is satisfied and seeks disposal of the suit in said terms. Therefore, the suit is disposed of alongwith pending application in terms that any action that the Department takes pursuant to the aforesaid inquiry shall be strictly in accordance with the law.

JUDGE

*PA/SADAM