

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 1715 of 2017

Date	Order with signature of Judge(s)
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1. For hearing of CMA No.10437/2017.
2. For hearing of CMA No.11421/2017
3. For hearing of CMA No.5012/2019
4. For examination of parties/settlement of issues

06.09.2023

Mr. Kashif Nazir, advocate for the plaintiff.
Mr. Tahir Khalil, advocate holding brief for Mr. Khalid Rajpar,
advocate for the defendants.
Mr. Amer Zeb Khan, Assistant Attorney General.

The only cause of action pleaded in this suit is by virtue of paragraph 14 thereof, which reads as follows:

“14. That the cause of action accrued to the Plaintiff when he filed the subject GDs on 14.07.2017, and it is continued when the Defendant No.01 assessed the GDs without allowing exemption under FTA.”

It is demonstrated that the plaintiff filed Goods Declaration which was assessed and a claim in respect of some exemption was not granted thereto. By necessary implication the assessment remains in the field and the present suit was filed as an alternative to filing an appeal under statutory hierarchy provided.

Irrespective of merits of the case, the primary question to be addressed by this court is with respect to jurisdiction as the assessment order is *admittedly* an appealable order; for which an entire statutory hierarchy is provided and abjuring the said recourse unilaterally by plaintiff cannot be deemed to be confer any jurisdiction upon this court.

The honorable Supreme Court has deprecated abjuring of the statutory hierarchy of dispute resolution in the Judgment reported as 2022 SCMR 92 (*Commissioner Inland Revenue v. Jahangir Khan Tareen*) and maintained the primacy of the statutory fora. It hardly merits reiteration that the edict of the Supreme Court is binding law for this Court.

Admittedly, the impugned order was appealable and voluntary default by the plaintiff in seeking recourse before the statutory hierarchy could not be demonstrated to denude the statutory forum of its jurisdiction; or confer the same upon this court. Even otherwise, the plaintiff's learned counsel remained unable to demonstrate as to how this Court could assume jurisdiction in this matter in view of the Judgment reported as 2022 SCMR 92 (*Commissioner Inland Revenue v. Jahangir Khan Tareen*), as approved by the Supreme Court recently in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*. In view of the foregoing, the pending applications herein are hereby dismissed and the plaint is hereby rejected per Order VII rule 11(d) CPC.

JUDGE