

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit No. 1781 of 2016

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Date: Order with signature of the Judge  
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For final arguments

**12.09.2023**

Mr. Mushtaque Hussain Qazi, Advocate for the plaintiff

Present suit primarily assails show cause notice dated 11.07.2016 issued by the Deputy Commissioner Inland Revenue Karachi. At the very onset, plaintiff's counsel was confronted with the maintainability hereof in view of the judgment of a Division bench of this Court reported as *PLD 2019 Sindh 516 (Dr. Seema Irfan vs. Pakistan)* and the judgment of the august Supreme Court reported as *2022 SCMR 92 (Commissioner Inland Revenue vs. Jahangir Khan Tareen)*. Learned counsel had no cogent response. It hardly merits reiteration that the edicts are binding law for this Court. Admittedly, the notice provided a forum and opportunity for adjudication of any grievance of the plaintiff. Any order passed in pursuance thereof was also appealable. 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)*. Similar views were taken by learned Single judges in order dated 27.09.2022 rendered in Suit 855 of 2015 and the judgment reported as *2022 PTD 1742 (PPL vs. Pakistan)*.

The learned counsel also sought to assail an audit selection notice, however, has perhaps failed to appreciate the judgment of the august Supreme Court in *COMMISSIONER OF INLAND REVENUE, SIALKOT VS ALLAH DIN STEEL AND ROLLING MILLS* reported as *2018 SCMR 1328*, wherein, it was

held that once a taxpayer was selected for audit and till such audit was completed the taxpayer was provided ample and multiple opportunities at every step to defend his position, support his returns and offer explanations for the information provided and entries made in the tax returns. Even if a discrepancy was discovered taxpayer was provided yet another opportunity to explain his position before his assessment was revised. A Division bench of this Court has earlier dismissed a similar claim in the *Pfizer* case reported as 2016 PTD 1429. A learned single Judge has dismissed a similar claim also order dated 31.01.2020 in Suit 1208 of 2020.

In view of the foregoing, the plaint herein is hereby rejected per Order VII rule 11(a)&(d) CPC.

**J U D G E**

Amjad/PA