

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 2039 of 2021

Date	Order with signature of Judge(s)
------	----------------------------------

1. For hearing of of CMA No.15156/2021.

20.09.2023

Mr. Taimoor Ahmad Qureshi, advocate for the plaintiff.
Mr. Imtiaz Ali Solangi, advocate for the defendant.
Mr. Amer Zeb Khan, Assistant Attorney General.
Mr. Aijaz Hussain, Commissioner, Inland Revenue, MTO, Karachi.

The plaintiff has preferred this suit on 15.09.2021 and impugned an audit selection notice dated 10.12.2019. Paragraph 14 of the memorandum of plaint pleads the cause of action having accrued at the time of receipt of the impugned notice, however, articulates no rationale for the urgency pleaded at the belated time of institution of the suit.

The thrust of the plaintiff's case, as articulated by the learned counsel was that the impugned notice/s / audit selection was unsustainable in view of the Judgment reported as 2023 PTD 576 (*Wazir Ali Industries Ltd. vs. Federation of Pakistan & Others*).

Learned Commissioner Inland Revenue ("CIR") Mr. Aijaz Hussain, present in person, discharged the vakalatnama of his learned counsel, Mr. Imtiaz Ali Solangi Advocate, and sought to address Court himself. Permission granted; office is directed to score of the name of Mr. Imtiaz Ali Solangi Advocate from the file and amend the record accordingly.

The CIR stated that the impugned notice/s was never challenged by the plaintiff upon receipt; the same was acted upon and culminated in an audit report dated 08.08.2021, hence, the notice itself ought to be considered past and closed. It was submitted that serious anomalies were identified in the audit report, however, instead of addressing the same, the present suit was filed and *ad interim orders* obtained, subsisting till date.

In rebuttal, plaintiff's counsel admitted that the chronology demonstrated by the CIR, hence, it would appear that it was only the audit report that precipitated the present suit.

Heard and perused. It is apparent that the impugned notice/s was received in 2019 and no grievance was pleaded by the plaintiff until almost two years later when confronted with an audit report, containing adverse observations. It would follow that the plaintiff had acquiesced¹ with respect to the impugned notice/s as the same was acted upon and culminated in the audit report. While the plaintiff has every right to present its case with regard to observations made in audit report, no case could be made out to suspend the impugned notice/s *admittedly* already acted upon.

In view hereof, this court is of considered opinion that no case is made out for grant of this application, which is hereby dismissed.

JUDGE

¹ Per *Muhammad Ali Mazhar J* in the judgment dated 13th June 2022 in *Market Committee Multan vs. AC Multan (Civil Petitions 6406 to 6434 of 2021)*.