

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 80 of 2015

Date	Order with signature of Judge(s)
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1. For hearing of CMA No.781/2015.
2. For hearing of CMA No.653/2015.
3. For hearing of CMA No.654/2015.

02.10.2023

Mr. Salman Yousuf, advocate for the plaintiff
Mr. Muhammad Khalil Dogar, advocate for the defendant 4.
Mr. Javed Hussain, advocate for the defendants 2, 3 & 5.

This suit is pending since 2015 and essentially¹ assails a notice issued by the FBR dated 17.12.2014, the operative part whereof reads as follows:

“3. A statement of all Goods Declarations (G.D.s) cleared by you without authorization during the year 2012-2013 is enclosed at Annexure “A” involving revenue of Rs.118,287,873/-. You are directed to clarify your position and explain why the unauthorized amount of custom duty and taxes may not be sought to be recovered from you for misuse of the provisions of exemption/concession granted under SRO 656(I)/2006 dated 05/06/2006.

4. Your reply should reach the undersigned within 07 days of receipt of this letter, failing which appropriate action as per law will be initiated against you, without any further notice.”

Perusal of the impugned notice demonstrates that a forum and opportunity for consideration of any grievance of the plaintiff was provided, however, instead of replying the impugned notice the present suit was filed and *ad interim* orders obtained. The matter remains in limbo for over eight years now.

Prima facie, the impugned notice provided a forum and opportunity for adjudication of any grievance of the plaintiff. Any eventual order passed in pursuance thereof would 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 articulated by learned Single judges in order dated 27.09.2022

¹ As demonstrated by paragraph 26 of the plaint, wherein the cause of action has been pleaded.

rendered in Suit 855 of 2015 and the judgment reported as 2022 PTD 1742 (PPL vs. Pakistan). In view of the foregoing, the pending applications are dismissed and the plaint is rejected per Order VII rule 11(d) CPC.

JUDGE

Khuhro/PA