

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

Suit No. 836 of 2013

Date: Order with signature of the Judge

1. For hearing of CMA No.7602/2013
2. For hearing of CMA No.10019/2015
3. For hearing of CMA No.13665/2015
4. For hearing of CMA No.5805/2016
5. For examination of parties / settlement of issues

09.10.2023

Mr. Darvesh K. Mandhan, advocate for the plaintiff
Mr. Muhammad Khalil Dogar, advocate for defendant
Mr. Irfan Mir Halepota, advocate for defendant
Mr. Aamir Zeb Khan, Assistant Attorney General

Per plaintiff's learned counsel, GD was filed and in respect whereof assessment was made¹. The plaintiff claims to have been aggrieved by the said assessment², however, instead of assailing the same in the statutory hierarchy per Customs Act, 1969, the present suit has been preferred. By necessary implication the assessment remained in the field and the present suit is perhaps employed as the appellate forum in regard thereof. For over a decade the adjudication of any grievance with respect to the assessment is abjured and the matter still remains pending for settlement of issues.

Irrespective of merits of the case, the primary question to be addressed by this court is with respect to jurisdiction as assessment orders are *admittedly* appealable; for which an entire statutory hierarchy is provided and abjuring the said recourse unilaterally by a 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

¹ As demonstrated *inter alia* from page 81 herein.

² As reflected in the respective paragraphs in the complaints wherein cause of action has been pleaded.

primacy of the statutory fora. It hardly merits reiteration that the edict of the Supreme Court is binding law for this Court.

Admittedly, the assessment was appealable and voluntary default by the plaintiffs 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 rejected per Order VII rule 11(d) CPC.

J U D G E

Amjad/PA