

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

High Court Appeal No.21 of 2024

Mohsin Abbas Dharsi & another

Versus

Federation of Pakistan & others

Date	Order with signature of Judge
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1. For orders on CMA 270/24
2. For hearing of main case.
3. For orders on CMA 271/24

Dated: 21.02.2024

Dr. Shah Nawaz Memon, advocate for appellants.
Mr. Maaz Waheed for respondent No.3.

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Learned counsel appearing for respondent No.3 has filed a statement, annexing therewith certain documents. The same is taken on record.

We have heard counsel and perused record.

Impugned in this appeal is an order of 04.12.2023 (wrongly typed as 04.12.2024) passed in Suit No.NIL (-2061) of 2023 whereby interim order granted to the appellants earlier i.e. on 18.10.2023 was recalled.

Brief facts are that an Order-in-Original No.20/2023 was passed by the Directorate General of Trade Organization having office at State Life Building, Second Floor, Blue Area, Islamabad. Aggrieved of it an appeal was preferred by the appellants before Secretary, Ministry of Commerce, Islamabad.

Perhaps at the relevant time when the appeal was filed it (the forum/Committee) was not notified as later it was notified and made available for adjudication. Consequently when forum was not notified, the appellants invoked jurisdiction of this Court on original side while their appeal was pending at Islamabad. Office has raised objection as to the territorial jurisdiction of this Court, which perhaps was deferred as

an injunctive interim order was granted in favour of the appellants on 18.10.2023. Sometimes later i.e. on 17.11.2023 a notification was also issued whereby Federal Cabinet was pleased to constitute a Committee of the Cabinet comprising of members disclosed therein. On 04.12.2023 interim order was recalled, which is impugned in this appeal.

The discretion that was exercised by learned Single Judge seems lawful on the count that the forum in the first instance was then made available by virtue of notification of 17.11.2023 where the appellants could have conveniently pursue their appeal as well as injunction application, if any. It has also been pointed out that no such interim application in the pending appeal was either filed nor a copy thereof is placed before this Court, which is claimed to have been pending before the appellate forum. Nevertheless, it could be filed later.

Notwithstanding the above facts even if appellants were constrained to file a case before original Civil Court, subject to statutory objections, it had to be either Islamabad or where cause has triggered but not at Karachi. The appellants' counsel has even not been able to satisfy learned Single Judge or this Court as to how the territorial jurisdiction of this Court is available. Before exhausting jurisdiction of this Court, appeal has already been preferred at Islamabad, as identified above, before Secretary Ministry of Commerce Islamabad at Islamabad. On both the counts i.e. availability of forum now by virtue of notification dated 17.11.2023 as well as on the count of territorial jurisdiction, the impugned order is found to be lawful and no interference is required. Instant High Court Appeal is accordingly dismissed along with listed applications.

Judge

Judge