

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

Suit No.315 of 2022
Suit No.1429 of 2022
Suit No.316 of 2022
Suit No.877 of 2022

Date: Order with signature of the Judge

1. For examination of parties / settlement of issues
2. For hearing of CMA No.2701/2022
3. For hearing of CMA No.5859/2022

07.11.2024

Messrs. Ali Almani, Sami-ur-Rehman and Muhammad Furqan, advocate for the plaintiff in Suits No.315/2022, 316/2022 & 877/2022

Barrister Zain Mallah, Advocate for the Plaintiff in Suit No.1429/2022
Mr. Munawar Ali Memon, Advocate for the Defendant

The plaintiffs filed refund claims with the exchequer and the said refunds were duly received by them. Notices in respect of post refund audit were issued thereto and the same have been assailed herein. *Ad interim* orders were obtained at the very onset and they subsisted till date.

It is settled law that a notice seeking information is not generically adversarial in nature and would not *ipso facto* give rise to an actionable cause¹. The Supreme Court maintained in *Allahdin Steel*² 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. In summation, the honorable Supreme Court has held that such selection is not *per se* illegal. A similar view was also maintained by a Division bench of this Court in *Pfizer*³.

The plaintiff has raised objections to the issuance of the post refund audit notices thereto, however, such reservation ought to have been escalated before the relevant authority. Default by the plaintiffs in submitting to the statutory hierarchy could not be demonstrated to denude the statutory forum of its jurisdiction; or confer the same upon this court.

Notwithstanding the foregoing, the issue of challenge to post refund audit notices has been conclusively determined by a Division Bench of this Court in

¹ Reference is also made to *PLD 2019 Sindh 516; 2018 PTD 2208; 2015 PTD 2572; and 2009 PTD 20* in the specific context of audit notices.

² *Commissioner Inland Revenue Sialkot vs. Allah Din Steel & Rolling Mills* reported as 2018 SCMR 1328 / 2018 PTD 1444.

³ *Pfizer Pakistan Limited vs. Deputy Commissioner & Others* reported as 2016 PTD 1429.

*Yunus Textiles*⁴. The ratio of the aforesaid *binding* edict appears to be squarely applicable herein, therefore, in *mutatis mutandis* application of the reasoning and rationale therein the plaints in the present suits are rejected. However, the plaintiffs remain at liberty to agitate their grievances before the issuing authority, subject to the law. The office is instructed to place a copy hereof in each connected suit.

Judge

⁴ Per *Muhammad Junaid Ghaffar J* in *Yunus Textile Mills Limited vs. Federation of Pakistan* reported as 2024 PTD 370.