

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Suit No.292 of 2017

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DATE

ORDER WITH SIGNATURE OF JUDGE

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For orders on CMA No.1584/17 (U/O 39 Rule 1 & 2 CPC)

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**03.09.2018**

Mr. Muhammad Ali Aziz, Advocate for Plaintiff.  
M/s. Jamal Bukhari, Shamshad Ahmed and Ayaz Sarwar Jamali,  
Advocates alongwith Syed Zain-ul-Abidin, Deputy Commissioner, SRB.  
Mr. Umar Zad Gul Kakar, DAG.

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On 27.08.2018 directions were given to the Plaintiff to deposit 50% of the disputed amount with the Department pursuant to judgment of the Hon'ble Supreme Court dated 27.6.2018 passed in Civil Appeal Nos.1171/2017 and other connected matters. Today, learned Counsel submits that this is a not case of levy of any tax as decided by the Hon'ble Supreme Court in the cases pertaining to Workers Welfare Fund reported as Workers Welfare Funds, Ministry of Human Resources v East Pakistan Chrome Tannery (Private) Limited (PLD 2017 SC 28); hence, the Judgment of the Hon'ble Supreme Court in this regard does not apply and no deposit of 50% amount is to be made. In the alternative he has argued that the Workers Profit Participation Fund in this case has already been transferred to the Trust / Fund established for this purposes, and the remaining balance amount has then been paid to the Workers Welfare Fund established by the Federal Government and accordingly the demand of the same by the Sindh Revenue Board is illegal.

I have briefly heard the learned Counsel. Insofar as the amount in question is concerned, the same pertains to Workers Profit Participation Fund which is to be contributed by the plaintiff at the rate of 5% of the profit for its contribution to the Trust created for such purposes under section 3 & 4 of the Companies Profit (Workers Participation) Act, 1968. After the 18<sup>th</sup> amendment the same is now being claimed by the Province in terms of Sindh Companies Profit (Workers Participation) Act, 2015. Learned Counsel was time and again directed to satisfy as to how and in what manner

the said amount has been paid and liability stands discharged even under the 1968 Act; however, he could not do so, but only referred to the Profit and Loss Accounts and claimed that it has been so reflected in these Accounts, hence paid. However, on examination, even in these Financial Statements, it is not clearly shown to have been paid, but a mere provision has been made for such liability. Nonetheless, the Financial Statements placed on record are up to the year 2014, whereas, the claim of the Province in fact starts from the year 2015, when they enacted the Act, 2015. Therefore, in any case reference to such Financial Statement is of no help.

Be that as it may, it is not that this Court is precluded from issuing any directions for securing the disputed amount, notwithstanding the stance taken by the Plaintiff's Counsel that this is not a matter pertaining to levy and demand of tax in response to the directions issued by this Court in the light of the judgment of the Hon'ble Supreme Court as above.

Accordingly, Plaintiff is directed to deposit the amount pertaining to Workers Participation Fund for the years 2015 onwards in question, with the Nazir of this Court and Order dated 31.01.2017 stands modified to that extent. Such deposit shall be made within three days from today, failing which, appropriate orders would be passed. If the plaintiff, (as claimed) has already contributed to the Fund / Trust in respect of the said amount, then proper proof regarding such disbursement and so also of balance amount being paid to the Workers Welfare Fund as required under section 4(d) of the Schedule to the 1968 Act, shall be placed on record.

To come up on 10.09.2018 at 11:00 a.m.

J U D G E

Ayaz P.S.