

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
CP No. D-1057 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.26624/2022.
2. For orders on office objection.
3. For hearing of CMA No.6045/2022.
4. For hearing of CMA No.4800/2022.
5. For hearing of main case.

20.10.2022

Mr. Muhammad Wasif Riaz, advocate along with Mr. H. Muhammad Suleman, advocate for the Petitioner.

Mr. Yousuf, Moulvi advocate for the respondent No.3.

Mr. Syed Yasir Ali, Assistant Attorney General.

This petition impugns judgment dated 30.12.2021 passed by Full Bench NIRC, Karachi, and judgment dated 12.4.2021 passed by a Single Member, NIRC at Quetta, whereby the grievance petition of Respondent No.3 has been allowed by setting aside the penalties imposed in departmental proceedings. Since Respondent No.3 is based at Islamabad and matter was heard and decided by Single Member, NIRC at Quetta, after its transfer by the Chairman NIRC from Islamabad we on 10.08.2022, had passed the following order: -

“Learned counsel for the petitioner is directed to come prepared and satisfy as to territorial jurisdiction of this court in this matter and shall also go through the Judgment reported as Dewan Scrap (Pvt.) Limited vs. Customs, Central Excise and Sales Tax Appellate Tribunal (2003 PTD 2127) and Ibrahim Fabrics (Pvt.) Limited vs. Federation of Pakistan (PLD 2009 Kar. 157).”

Adjourned to 01.09.2022. Interim orders passed earlier to continue till the next date of hearing.”

Today, we have confronted the Petitioner’s Counsel as to our above objection; but he has not been able to satisfactorily respond except that the impugned order has been passed by the Full Bench of NIRC at Karachi. However, it is an admitted position that original proceedings were initiated by Respondent No.3 at Islamabad, which were then transferred to Quetta; against which the attempt of the petitioner to seek a restraining order had failed, therefore, merely for the fact that in absence of a full Bench of NIRC at Quetta, the Karachi Bench had taken up the Appeal of the Petitioner, this Court cannot assume territorial jurisdiction as ultimately it is the order of Single Bench NIRC at Quetta

against which the relief is being sought. The issue in hand regarding territorial jurisdiction in such matters is now settled by *Dewan Scrap (Pvt.) Limited*¹, *Ibrahim Fabrics (Pvt.) Limited*² (PLD 2009 Kar. 157), *Sandalbar Enterprises (Pvt) Limited*³ and *Subhan Beg*⁴.

In view of the above, this Court lacks territorial jurisdiction; hence petition is not maintainable before this Court; accordingly the same is dismissed as being not maintainable with pending applications. However, the Petitioner is at liberty to seek appropriate remedy before a Court having territorial jurisdiction.

JUDGE JUDGE

Ayaz P.S.

¹ 2003 PTD 2127

² PLD 2009 Kar. 157

³ PLD 1997 SC 344

⁴ PLD 1980 Kar. 113