

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 2151 of 2023

Date	Order with signature of Judge(s)
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1. For orders on CMA No.10387/2023.
2. For orders on CMA No.10388/2023.
3. For orders on CMA No.10389/2023.
4. For hearing of main case.

05.05.2023

Mr. Ali T. Ebrahim, advocate for the petitioner.

The petitioner, being public limited company, was adjudged culpable for payment of deficient stamp duty and penalty vide order of the Chief Collector of Stamps under section 40(1)(b) of the Stamp Act 1899 dated 03.03.2022. In appeal, the aforesaid order was maintained, with modification, by the Court of the Member (RS&EP) / Chief Revenue Authority Board of Revenue, vide order dated 04.01.2023. The respective orders have been assailed before this Court; in the exercise of its writ jurisdiction.

The entire crux of the case articulated before us was that the record / evidence was not appreciated in its proper perspective by the respective fora, hence, the exercise be conducted afresh by this Court.

During the course of arguments, learned counsel graciously conceded that certain constituents of the imposition, vide the respective orders, were perhaps rightly determined, however, sought *de novo* appreciation in respect of one remaining constituent. The plea for seeking *de novo* appreciation of the record / evidence, culminating in the imposition, is not maintainable, *inter alia*, as the writ jurisdiction is not amenable for determination of disputed factual controversies requiring inquiry and / or evidence¹.

It is settled law that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no appeal is provided², and is restricted *inter alia* to appreciate whether any manifest illegality is apparent from the order/s impugned. It is trite law³ that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law. The impugned orders are well reasoned and the learned counsel has been unable to demonstrate any manifest infirmity therein or that they could not have been rested upon the rationale relied upon therein.

¹ 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415.

² Per *Ijaz ul Ahsan J* in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as PLD 2021 Supreme Court 391.

³ Per *Faqir Muhammad Khokhar J.* in *Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as PLD 2006 Supreme Court 1124; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as PLD 2013 Supreme Court 323.

Even otherwise Article 199 of the Constitution contemplates the discretionary⁴ writ jurisdiction of this Court and in the present matter no case has been set forth before us to merit invocation of such jurisdiction. In view hereof, while granting the urgency application, this petition and listed applications are hereby dismissed in *limine*.

JUDGE

JUDGE

⁴ Per *Ijaz Ul Ahsan J.* in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.