

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

I.A No. 09 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGES
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Hearing of case (Priority)

1. For hearing of main case
2. For hearing of CMA No.422/2023 (Stay Application)

17.10.2023

Appellant Naeem Khan is present in person
Mr. Rajesh Kumar Khagaija, Advocate for Respondent No.1

After hearing the matter at some length, a final statement has been filed today on behalf of Respondent No.1 listing out various sums payable by the Appellant, the principal amount is shown to be Rs.3,773,528/- and thereafter the Respondent-CAA has added 5% surcharge, KIBOR + 2% interest and Advance Income Tax including the Security Deposit. Learned counsel for Respondent-CAA has drawn our attention to Clause-5 of the License Agreement dated 09.09.2015 as well as Special Conditions to the Agreement imposed under Clause-33, in terms of which the Respondent has gained contractual strength to charge interest at the rate of KIBOR + 2% of the outstanding amount and the rest. The Appellant appearing in person draws Court's attention to the Committee Report (undated) to show that Respondent-CAA admitted that only a sum of Rs.3,723,922/- as principal amount is outstanding against the Appellant.

Learned counsel was questioned as to the competency of Respondent-CAA under the Civil Aviation Ordinance/Rules to act as financial institution and charge KIBOR + interest rate + additional surcharge amount payable, but he was unable to satisfy the Court that the Respondent-CAA has accumulated such statutory powers.

In the circumstances at hand, we allow this Appeal by directing the Appellant to pay the principal amount of Rs.3,723,922/- within

fifteen days from the date of this order, whereupon the Respondent-CAA would return the securities/vehicles back to the Appellant. Other claims of surcharge, KIBOR interest and Advance Tax being beyond the statutory competency of the Respondent-CAA are not to be charged.

With these directions, instant 1st Appeal stands disposed of alongwith the pending application(s).

ACTING CHIEF JUSTICE

JUDGE

B-K Soomro