

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

Suit No. 1267 of 2018
Suit No. 1213 of 2018
Suit No. 1318 of 2018

Date: Order with signature of the Judge

1. For hearing of CMA No.9403/2018
2. For final disposal

12.01.2024

Khawaja Altaf Ahmed advocate holds brief for Mr. Haider Waheed Advocate for the plaintiff.

Mr. Muhammad Taseer Khan, advocate for defendant No.2

Mr. Muhammad Aqeel Qureshi, advocate for defendant No.3

These suits essentially seeks to assail selection for audit notices, under sections 177 and 214C of the Income Tax Ordinance, 2001, ostensibly issued predicated upom random parametric ballot.

The controversy appears to have been comprehensibly determined by the Supreme Court in *Allahdin Steel*¹, wherein it was held that 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 Division bench of this Court has earlier dismissed a similar claim in the *Pfizer*².

In *pari materia* circumstances another Division bench of this Court maintained in *Dr. Seema Irfan*³ that a mere notice seeking information is not necessarily adversarial and would not *ipso facto* give rise to an actionable cause. Similar findings were recorded by the august Supreme Court in the judgment in *Jahangir Khan Tareen*⁴, approved recently in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*. In consideration of the foregoing, it is observed that the plaintiffs have failed to demonstrate an actionable cause of action.

¹ Per *Ijaz Ul Ahsan J* in *Commissioner Inland Revenue Sialkot vs. Allah Din Steel & Rolling Mills* reported as 2018 SCMR 1328 / 2018 PTD 1444.

² Per *Faisal Arab J* in *Pfizer Pakistan Limited vs. Deputy Commissioner & Others* reported as 2016 PTD 1429.

³ Per *Muhammad Ali Mazhar J* in *Dr. Seema Irfan vs. Federation of Pakistan* reported as PLD 2019 Sindh 516.

⁴ Per *Muhammad Ali Mazhar J* in *Commissioner Inland Revenue vs. Jahangir Khan Tareen* reported as 2022 SCMR 92.

As has been observed in the *Allahdin case*, audit proceedings provided a forum and opportunity for consideration of any reservation of the plaintiffs. If any adverse order was order passed in pursuance thereof the same would be appealable. 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. Similar views were taken by learned Single judges in order dated 27.09.2022 rendered in Suit 855 of 2015 and the judgments in *Azee Securities*⁵ and *PPL*⁶. Even otherwise, it is not apparent as to how this Court could assume jurisdiction in this matter in view of the binding judgments delineated supra.

In view hereof, and while applying the ratio articulated by the edicts delineated supra, the respective complaints are hereby rejected. The office is instructed to place a copy hereof in connected suits.

Judge

Amjad/PA

⁵ Per Muhammad Junaid Ghaffar J in *Azee Securities vs. Pakistan* reported as 2019 PTD 903.

⁶ Per Adnan Iqbal Chaudhry J in *PPL vs. Pakistan* reported as 2022 PTD 1742.