

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

Suit No. 1453 of 2021

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Date: Order with signature of the Judge  
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For hearing of CMA No.10638/2021

**12.09.2023**

Mr. Taimoor Ali Mirza, advocate for the plaintiff  
Mr. Aamir Zeb Khan, Assistant Attorney General

The plaintiff has assailed three notices herein; the first merely seeks information under Section 176 of the Income Tax Ordinance 2001; the second is a notice to amend assessment under section 122(9) of the ITO 2001; and third is notice under section 111(1) of the ITO 2001 to explain etc. Learned counsel submitted that the returns submitted for the year 2015 & 2016 have not been appreciated by the department in their proper perspective, hence, the notices under consideration are predicated upon malice. Respectfully, this Court finds itself unable to assume jurisdiction upon the premise cited in view of the preponderance of authority to the contrary.

At the very onset, plaintiff's counsel was confronted with the maintainability hereof in view of the judgment of a Division bench of this Court reported as *PLD 2019 Sindh 516 (Dr. Seema Irfan vs. Pakistan)* and the judgment of the august Supreme Court reported as *2022 SCMR 92 (Commissioner Inland Revenue vs. Jahangir Khan Tareen)*. Learned counsel had no cogent response. It hardly merits reiteration that the edicts are binding law for this Court.

Admittedly, the notices provided a forum and opportunity for adjudication of any grievance of the plaintiff. Any order passed in pursuance thereof was also appealable. Default by the plaintiff in seeking recourse before the statutory hierarchy could not be demonstrated to denude the statutory forum of its jurisdiction; or confer the same upon this court. Even otherwise, the plaintiff's learned counsel remained unable to demonstrate as to how this Court could assume jurisdiction in this matter in view of the Judgment reported as *2022 SCMR 92 (Commissioner Inland Revenue v. Jahangir Khan Tareen)*, as approved by the Supreme Court recently in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*. Similar views were articulated by learned Single judges in order dated 27.09.2022 rendered in Suit 855 of 2015 and the judgment reported as *2022 PTD 1742 (PPL vs. Pakistan)*. In view of the foregoing, the pending application is dismissed and the plaint herein is rejected per Order VII rule 11(d) CPC.

**J U D G E**