

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 219 of 2018

Date	Order with signature of Judge(s)
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1. For further orders on CMA 2049/2022.
2. For arguments.

18.09.2023

Mr. Hasan Arif, advocate for the plaintiff.
Mr. Aqeel Ahmed Qureshi, advocate for the defendant.
Mr. Zuhaib Korai, advocate holding brief for Mr. Khalid Mehmood Siddiqui, advocate for the defendant.
Mr. Sajid, advocate holding brief for Mr. Khalid Rajpar, advocate for the defendant.
Mr. Muhammad Ahmed, Deputy Attorney General.

Per learned counsel, a number of GDs were filed, list available at page 103 of the court file, in respect whereof assessment has also been made. Plaintiff claims to have been aggrieved by the said assessments, however, instead of assailing the same in statutory hierarchy per Customs Act, 1969, the present suit has been preferred. By necessary implication the assessments remain in the field and the present suit is perhaps employed as the appellate forum in regard thereof.

Irrespective of merits of the case, the primary question to be addressed by this court is with respect to jurisdiction as the assessment orders are *admittedly* appealable; for which an entire statutory hierarchy is provided and abjuring the said recourse unilaterally by plaintiff cannot be deemed to be confer any jurisdiction upon this court.

The honorable Supreme Court has deprecated abjuring of the statutory hierarchy of dispute resolution in the Judgment reported as 2022 SCMR 92 (*Commissioner Inland Revenue v. Jahangir Khan Tareen*) and maintained the primacy of the statutory fora. It hardly merits reiteration that the edict of the Supreme Court is binding law for this Court.

Admittedly, the assessments were appealable and voluntary 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)*. In view of the foregoing, the pending applications herein are hereby dismissed and the plaint is hereby rejected per Order VII rule 11(d) CPC.

JUDGE