

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

Suit No. 201 of 2004

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Date: Order with signature of the Judge  
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For arguments

**27.09.2023**

Mr. Naveed Ahmed, advocate for the plaintiff

This suit is pending since 2004. The cause of action has been pleaded in paragraph No.23 and it reads as follows:

*“That the cause of action accrued to the plaintiff within the jurisdiction of this Hon’ble Court when the consignment arrived on in between 2002-2203 and continues till today on each and every day when the subsequent consignments have arrived and have not been allowed to be released on the declared transaction value, as per section 25(1) of the Customs Act, 1969”.*

At the very onset learned counsel is confronted with respect to maintainability, however, he is not prepared and is unable to assist.

Perusal of the aforementioned paragraph demonstrates that the plaintiff is aggrieved by assessments, not having been done in a manner expected by the plaintiff. 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.

**J U D G E**

Amjad/PA