

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 240 of 2015
Suit 2420 of 2014

Date	Order with signature of Judge(s)
------	----------------------------------

1. For hearing of CMA No.5405/2017.
2. For non-prosecution (vide AR diary dated 25.11.2021).

02.10.2023

Mr. Muhammad Nouman Jamali, advocate for the plaintiffs
Dr. Shah Nawaz, advocate for the defendant 2.
Mr. Javed Hussain, advocate holding brief for Mrs. Masooda Siraj,
advocate for the defendant 3.

Per plaintiffs' learned counsel, GDs were filed and in respect whereof assessments were made. The plaintiffs claim to have been aggrieved by the said assessments¹, however, instead of assailing the same in the statutory hierarchy per Customs Act, 1969, the present suits have been preferred. By necessary implication the assessments remained in the field and the present suits are 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 plaintiffs 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 plaintiffs' 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 respective plaints are hereby rejected per Order VII rule 11(d) CPC.

Office to place a copy hereof in the connected matter listed above.

JUDGE

Khuhro/PA

¹ As reflected in the respective paragraphs in the plaints wherein cause of action has been pleaded.