

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

Suit No. 1269 of 2018

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Date: Order with signature of the Judge  
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For final disposal

**09.10.2023**

Khawaja Altaf Ahmed, advocate for the plaintiff  
Mr. Aqeel Ahmed Qureshi, advocate for defendant  
Mr. Aamir Zeb Khan, Assistant Attorney General

This suit challenges a selection for audit, vide notice dated 24.04.2018 issued under section 177 of the Income Tax Ordinance, 2001. The selection appears to be via a random parametric ballot and nothing could be demonstrated to befall the same out of the purview of the provision where under it was issued. Instead of responding to the notice the same has been impugned herein and the matter remains in limbo for over five years since.

Plaintiff's learned counsel was confronted as to maintainability hereof in view of the judgment of the Supreme Court in *COMMISSIONER OF INLAND REVENUE, SIALKOT VS ALLAH DIN STEEL AND ROLLING MILLS* reported as *2018 SCMR 1328*, however, he failed to address the issue and conveyed his unfamiliarity with the judgment referred to supra.

The august Supreme Court held in *Allahdin Steel* 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* case reported as *2016 PTD 1429*. In *pari materia* circumstances another Division bench of this Court maintained

in *PLD 2019 Sindh 516 (Dr. Seema Irfan vs. Pakistan)* 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 reported as *2022 SCMR 92 (Commissioner Inland Revenue vs. Jahangir Khan Tareen)*. In consideration of the foregoing read with paragraph 17 of the plaint, it is observed that the plaintiff has failed to demonstrate a cause of action.

As has been observed in the *Allahdin case*, audit proceedings provided a forum and opportunity for consideration of any reservation of the plaintiff. If any adverse order was order passed in pursuance thereof the same would be appealable. Default by the plaintiff 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 judgment reported as *2022 PTD 1742 (PPL vs. Pakistan)*. 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 binding judgments delineated supra.

In view of the rationale herein and reiterating the reasoning articulated by this Court in the order passed herein dated 11.10.2018 reported as *2019 PTD 903<sup>1</sup>*, the plaint is rejected.

**J U D G E**

Amjad/PA

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<sup>1</sup> Authored by *Muhammad Junaid Ghaffar J* – reliance is also placed on another *pari materia* order dated 31.01.2020 rendered in Suit 1208 of 2018.