

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
CP No.D-1680 of 2024

Date	Order with signature of Judge(s)
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1. For orders on office objection.
2. For hearing of Misc. No.7674/2024.
3. For hearing of Main Case.

**23.12.2024**

Mr. Rana Azam-ul-Hassan, advocate for the petitioner.  
Ms. Navin Merchant, advocate for the respondent.  
Ms. Alizeh Bashir, Assistant Attorney General.

Briefly stated, the respondent No.3 has filed claim/s for tax refund and the same has been sanctioned, per statutory of hierarchy of adjudication, by the learned Appellate Tribunal. Sales Tax Reference Applications, filed by the department are pending, however, no interim relief has been provided to the department therein, hence, recourse is sought to writ jurisdiction instead.

The said respondent had alleged maladministration on the part of the petitioner and escalated the matter of noncompliance before the Federal Tax Ombudsman. The proceedings culminated in the impugned order, rendered by the President, whereby the said respondent's representation had been accepted.

This Court has not been assisted with any law<sup>1</sup> providing for an appeal against the order impugned and the said circumstances squarely attract the observations of the Supreme Court, in the case *Gul Taiz Khan Marwat*<sup>2</sup>, reiterating settled law that an appeal is an creation of statute and in the absence of any such remedy being provided none can be presumed. It is settled law that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no further appeal is provided.

While the petitioner has every right to agitate its claim in the relevant STRAs and seek interim relief therein, no case could be made out by petitioner's counsel to circumvent the statutory remedial hierarchy and seek recourse to writ jurisdiction instead. Upon query as to why appropriate relief was not being sought in *admittedly* parallel pending proceedings, he stated that another counsel had been engaged for the said purposes.

In view hereof, this petition is found to be misconceived, hence, dismissed.

Judge

Judge

<sup>1</sup> Since the statute, Sindh Public Property (Removal of Encroachment) Act, 2010, admittedly contains no provision in such regard.

<sup>2</sup> Per *Ijaz ul Ahsan J* in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as *PLD 2021 Supreme Court 391*.