

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No.D-4346 of 2020

Date	Order with signature of Judge(s)
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1. For hearing of CMA No.18286/2020.
2. For hearing of Main Case.

20.12.2024

Messrs. Shaheer Roshan and Sameer-ur-Rehman, advocates for the petitioner.

Mr. Muhammad Taseer Khan, advocate for the respondents.

Ms. Alizeh Bashir, Assistant Attorney General.

The petitioner has challenged a notice to amend assessment per Section 122 (9) of the Income Tax Ordinance dated 03.08.2020. This Petition has remained pending since 2020 and ad-interim orders have subsisted until today.

A Division Bench of this Court had sieved a myriad of commonwealth authority, in *Dr. Seema Irfan*¹, and maintained that that a such notices may not be justiciable in writ jurisdiction; unless it is manifest *inter alia* that the same suffers from want of jurisdiction; amounts to an abuse of process; and / or is *mala fide*, unjust and / or prejudicial towards the recipient. The Supreme Court also had occasion to consider this question in *Jahangir Khan Tareen*², approved in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*, and while maintaining the ratio as aforesaid deprecated the tendency to shun the dispute resolution mechanism provided by statute. The aforementioned ratio is squarely applicable to the present facts and circumstances. It is pertinent to observe that no case of abuse of process and / or want of jurisdiction is manifest before us. Furthermore, no case has been articulated before us to consider the impugned notice to be *mala fide*, unjust and / or prejudicial towards the petitioner.

In summation, no case has been set forth before us to merit the invocation of the discretionary³ writ jurisdiction of this Court; therefore, this petition is hereby dismissed.

JUDGE

JUDGE

M.Khan

¹ Per Muhammad Ali Mazhar J. in *Dr. Seema Irfan & Others vs. Federation of Pakistan & Others* reported as *PLD 2019 Sindh 516*; *Deputy Commissioner Income Tax / Wealth Tax Faisalabad vs. Punjab Beverage Company (Private) Limited* reported as *2007 PTD 1347*.

² Per Muhammad Ali Mazhar J. in *CIR vs. Jahangir Khan Tareen* reported as *2022 SCMR 92*.

³Per *Ijaz Ul Ahsan J. in Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as *2021 SCMR 425*; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as *2010 SCMR 105*.