

Form No: HCJD/C.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Case No: Writ Petition No.1808 of 2021

Mian Amjad Saeed
Vs.
Federation of Pakistan etc.

Petitioner by: M/s. Asad Ullah Taimoor
Muhmand & Mirza Saqib Siddeeq,
Advocates.

Respondents by: Mr. Riaz Hussain Azam, Advocate.

Date of Decision: 10.06.2021

AAMER FAROOQ, J.- The petitioner is aggrieved of recovery notice received by him. It seems from the record that petitioner's case was selected for audit by respondents No.4 to 6 and since the petitioner did not join the same; the proceedings were concluded and the liability was worked out against the petitioner and now the demand has been raised with respect thereto.

2. Learned counsel for the petitioner, *inter alia*, contended that the petitioner is a retired employee of Pakistan Tobacco Company Limited. Since he was employee of the referred Company so for the registration of tax purpose he was registered with Karachi region; however, after the retirement he is settled in Islamabad and is paying tax through the electronic system from here.

It was contended that since respondents No.4 to 6 have no jurisdiction in the matter hence the audit proceedings and recovery are without lawful authority.

3. At the very outset, learned counsel for the respondents objected to the maintainability of the petition on the ground that an alternate and adequate remedy is available to the petitioner by way of an appeal. It was contended that there is nothing on record that the petitioner made a request for transfer of the jurisdiction from Karachi to Islamabad. When confronted, learned counsel for the petitioner conceded that he has an alternate and adequate remedy available by way of appeal; however, submitted that for that purpose he shall have to file an appeal in Karachi. It was further contended that the order is without jurisdiction and in response to the query of the Court conceded that even where the order is without jurisdiction the appeal is maintainable before the Tribunal which is a forum that can decide the questions of law and facts.

4. Arguments advanced by the learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

5. The background of the case is mentioned hereinabove therefore, need not be reproduced. Against the impugned

recovery notice and audit conducted by respondents No.4 to 6 the petitioner has an alternate remedy before the Appellate Tribunal which is adequate and efficacious. The fact that the appeal shall lie before Karachi Registry of the Appellate forum is no reason for not availing the statutory remedy. Even otherwise, the entire proceedings have been conducted by respondents No.4 to 6 and even the recovery notice has been issued by respondent No.5, hence this Court has no territorial jurisdiction and the dominant cause accrued at Karachi. No relief as such has been sought against the Federal Board of Revenue and it has been impleaded only to encompass jurisdiction. The referred fact finds strength from the prayer made in the writ petition as the material relief has been sought against respondents No.4 to 6 and only a direction is sought against respondents No.1 to 3 for transfer of the jurisdiction of the petitioner at regional tax office, Islamabad. It seems that no serious effort has been made by the petitioner for transfer of the jurisdiction and the prayer has only been made just to seek a direction and make the matter fall within the jurisdiction of this Court.

6. In view of the foregoing, the instant petition is dismissed as not being maintainable; however, the petitioner may approach the competent authority for transfer of the jurisdiction for future purpose if not already done and as and when such application or request is made the same shall be

decided in accordance with law expeditiously.

(AAMER FAROOQ)
JUDGE

M.Naveed