

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

Civil Appeal No. 04/2018

In

CPLA No. 87/ 2016

M/S Sultan Mehmood & others

Petitioners.

Versus

Provincial Government & others

Respondents.

PRESENT:-

1. Malik Shafqat Wali senior Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General and Mr. Behram Khan Advocate/Legal Adviser Water & Power Department Gilgit-Baltistan.

DATE OF HEARING: - 10.04.2018.

JUDGMENT.

Mr. Justice Rana Muhammad Shamim, CJ..... This petition has been directed against the impugned order dated 27.04.2016 in Writ Petition No. 34/2015 passed by the learned Chief Court whereby the said Writ Petition filed by the petitioners was disposed off due to corum-non-judice, hence, this petition for leave to appeal. This court vide order dated 23.11.2016 issued notices to the respondents and the case is heard today.

2. Succinctly, the facts of the case are that the petitioner namely Sultan Mehmood (Government Contractor) filed Writ Petition No. 34/2015 in the learned Chief Court on the ground that he is awarded a contract by respondent No. 03 & 04 for supply of machinery from foreign countries i.e. China & Japan. As per

contract, the petitioner supplied the imported machinery to the respondents. The machinery was brought to Karachi Sea Port where the Custom Authorities on 30.01.2014 deducted income tax worth of Rs. 44,09,553/- (rupees forty for lac nine thousand five hundred and fifty three only) and issued receipts thereof. Later on, the petitioner transported the said machinery to Gilgit-Baltistan. The Works Department Gilgit-Baltistan again deducted income tax on the same imported machinery. Upon hearing the learned Chief Court dismissed the writ petition being meritless.

3. The learned counsel for the petitioners submits that the petitioner paid double income tax i.e. one in Karachi Sea Port and other in Gilgit-Baltistan Works Department which is against the fundamental rights of the petitioner. Per learned counsel, the learned Chief Court fell in error while passing the impugned order dated 27.04.2016. He submits that the said impugned order is the result of mis-interpretation of law and misreading/non-reading of the facts of the case and the same is not sustainable. He prays that the said impugned order may graciously be set aside to meet the ends of justice.

4. Conversely, the learned Advocate General supports the impugned order passed by the learned Chief Court. He contends that the learned Chief Court has rightly dismissed the writ petition of the petitioner. He submits that as regard the payment of taxes etc, a factual controversy is involved which can only be resolved after recording of evidence on disputed points in the learned Civil

Court. He prays that the impugned order may pleased be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order passed by the learned Chief Court. In our considered view, the impugned order passed by the learned Chief Court is well reasoned and well founded, hence, indulgence into it is not warranted by this court.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 27.04.2016 in Writ Petition No. 34/2015 passed by the learned Chief Court is affirmed. The petitioners, however, may approach the competent court of law for redressal their grievances if they so advised.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.