

IN THE HIGH COURT OF SINDH AT KARACHI
(Original Civil Jurisdiction)

Suit No. _____ of 0000

TV Network Limited
Plot # 00/00, HA Street,
Off. I.I. Chundrigar Road,
Karachi - 74000
Through its duly constituted attorney
Mr. MN

PLAINTIFF

Versus

1. **Pakistan**
through Secretary Revenue &
Ex-Officio Chairman Federal Board of Revenue,
FBR House, Constitution Avenue,
Islamabad.
2. **Commissioner Inland Revenue**
Zone-xx
Large Taxpayers Unit,
Karachi.
3. **Deputy Commissioner Inland Revenue**
ABC Unit-x, Zone-xx,
Karachi.

DEFENDANTS

SUIT FOR DECLARATION AND PERMANENT INJUNCTION

Respectfully Sheweth:

1. That this suit relates to Tax Year xxxx.
2. That the Plaintiff is a public limited company incorporated under the Companies Ordinance, 1984. Its core areas of operation are production, advertisements, entertainment and media marketing. It is additionally engaged in the business of launching transitional satellite channels. The

Plaintiff provides a wide variety of programmes with respect to information, entertainment, news, education, health, food, music and society.

3. That the business model of the Plaintiff, for purposes of advertisement revenue, involves three parties, namely: (a) The Plaintiff; (b) advertising agent and (c) the commercial entity, person or clients of advertising agents whose advertisement is aired (“customers”). The Plaintiff sells its advertising spaces to customers who wish to place their advertisements on the Plaintiff’s television channel.
4. That the advertising agents who negotiate deals with the Plaintiff on behalf of these customers in fact only represent the customers. In return, customers then pay the Plaintiff for advertising space/services and the advertising agent for its services as an agent. These payments are received in the ratio of 85:15 for the Plaintiff and the advertising agent with each receiving its own share directly from the customer. In all events it is the customer that foots the bill of the advertising agent and of the Plaintiff and makes such payment to them. The Plaintiff does not pay the advertising agent anything and incurs no expenditure in such regard. However, it is pertinent to mention that all of the invoices raised by the Plaintiff also disclose the commission fee of the advertising agent (ANNEX A-1 to A-26). This is due to certain Circulars of the Defendant No.1 mentioned below.
5. That the amount of commission fee of the advertising agent that it charges to its customers are shown in the Financial Statements of the Plaintiff purely for the purposes of disclosure as such amount is mentioned in its invoice. The amount is neither an expenditure of the Plaintiff nor is it paid by the Plaintiff. Since the face of the Plaintiff’s invoice shows such amounts in a separate Note for the purposes of full disclosure due to certain auditing

standard and the will of the independent auditors. This is a requirement which has set by the Plaintiff's auditors and is prevalent across the television industry. The Financial Statements do not state that such amount is an expense of the Plaintiff and such amount is not shown where expenses of the Plaintiff are listed.

6. That the Plaintiff is a member of the Pakistan Broadcasters Association ("PBA") and is governed by PBA's Memorandum of Association and Articles of Association. Copy of Memorandum and Articles of Association are attached as **ANNEX B-1 & B-2** respectively.

7. That, from 01.07.0000, the Plaintiff falls under Final Tax Regime ("FTR") under section 153(3)(e) of the Income Tax Ordinance, 2001 ("Ordinance"). However, for purposes of Tax Year xxxx, it fell under the Normal Tax Regime ("NTR"). In the former regime, the tax once withheld and deposited is considered to be final discharge of tax liability. Under the latter regime, percentage of tax withheld can be used to claim tax credit at the time of filing of return of income at the end of the Tax Year. Under Clause (2)(c)(i) of Division III, Part 3 of First Schedule to the Ordinance, the rate of withholding tax applicable to the Plaintiff is 1.5 percent. However, it is pertinent to mention that withholding of income tax on advertisement services was exempted in Tax Year xxxx as provided in Clause 16A, Part IV of the Second Schedule to the Ordinance ("Clause 16A"). Clause 16 A is attached as **ANNEX C**.

8. That section 233 of the Ordinance falls under Chapter XII of the Ordinance which deals with Transitional Advance Provisions relating to collection or deduction of advance tax. Section 233's substance relates to brokerage and commission and the relationship of principal/agent. It reads as follows:

“233. Brokerage and Commission.—(1) Where any payment on account of brokerage or commission is made by the Federal Government, a Provincial Government, a Local Government, a company or an association of persons constituted by, or under any law (hereinafter called the “principal”) to a person (hereinafter called the “agent”), the principal shall deduct advance tax at the rate specified in Division II of Part IV of the First Schedule from such payment.

(2) If the agent retains commission or brokerage from any amount remitted by him to the principal, he shall be deemed to have been paid the commission or brokerage by the principal and the principal shall collect advance tax from the agent.

(3) Where any tax is required to be collected from a person under sub-section (1), such tax shall be the final tax on the income of such persons.”

According to section 233(1), any person making payment on account of brokerage or commission is a principal and the payee is an agent. The principal is under an obligation to deduct withholding tax at the rate specified in Division II of Part 4 of the 1st Schedule to the Ordinance (i.e 10 or 15% percent for advertising agents depending on if they are filers or non-filers) when making such payment. Section 233(2) caters for the payment mechanism where an agent receives payment on behalf of the principal from a customer.

9. That as in the case of all provisions relating to Advance Tax/Withholding Tax collection or deduction of tax at source, non-compliance with section 233 of the Ordinance attracts, *inter alia*, the provisions of Sections 161 and 122 of the Ordinance, which relate to assessment of Advance Tax/Withholding Tax/Collection & Deduction of Tax at Source (“Advance Tax”) and a taxpayer’s own tax liability respectively. Section 161 of the Ordinance can be invoked to assess and recover the advance tax not deducted or collected from the person liable under the law to collect or deduct such tax. This is subject to

the sub-sections of Section 161 of the Ordinance which require an opportunity of hearing to be provided and various other protections afforded to the person under assessment. Section 122 on the other hand can be invoked by virtue of Section 20 and Section 21. Section 20 deals with deductions that are allowable from income for any expenditure incurred by the person. Section 21 of the Ordinance deals with expenditure or deductions that are disallowed. For ease of reference and for relevant purposes, section 20(1) and section 21(c) of the Ordinance are reproduced below:

“20. Deductions in computing income chargeable under the head “Income from Business”.—(1) Subject to this Ordinance, in computing the income of a person chargeable to tax under the head “Income from Business” for a tax year, a deduction shall be allowed for any expenditure incurred by the person in the year wholly and exclusively for the purposes of business.”

“21. Deductions not allowed.- Except as otherwise provided in this Ordinance, no deduction shall be allowed in computing the income of a person under the head “income from Business” for-

(a) ...

(b) ...

(c) Any salary, rent, brokerage or commission, profit on debt, payment to non-resident, payment for services or fee paid by the person from which the person is required to deduct tax under Division III of Part V of Chapter X or section 233 of Chapter XII, unless the person has paid or deducted and paid the tax as required by Division IV of Part V of Chapter X;”

10. That under section 20(1) of the Ordinance, expenditure incurred by the person is allowed to be deducted from the computation of income chargeable to tax. Under section 21(c) of the Ordinance deduction of expenditure is liable to be disallowed, whilst computing the income of a person, if any

payment in respect of commission etcetera is made and the person fails to deduct/withhold and the tax as prescribed in Division IV of Part V of Chapter X. This can be effected through assessment proceedings under Section 122 of the Ordinance.

11. That, on 19.12.0000, Defendant No. 3 issued a Show Cause Notice (“Impugned Notice”) under section 122(9) read with section 122(5A) of the Ordinance for Tax Year xxxx (ANNEX D). Therein, the Defendant No. 3 incorrectly assumed, *inter alia*, after placing his reliance solely on the treatment of Agency Commission amount in Plaintiff’s Financial Statements for Tax Year xxxx, that the Plaintiff pays commission to advertising agents. Upon this erroneous assumption the Defendant No. 3 alleged that the Plaintiff did not deduct/collect tax under section 233 of the Ordinance from the payments made by it to the agent and has claimed as an expense under the head of agency commission an amount of Rs. 000,900,000. Hence, it claimed that such an expense is not allowable under section 21(c) of the Ordinance and called upon the Plaintiff to show cause as to why such amount should not be added back to its income.
12. That the Impugned Notice called upon the Plaintiff to submit its reply/explanation, in respect of the issues/objections therein, by 26.12.0000. Vide letter dated 26.12.0000, the Plaintiff requested for an extension to comply with the Impugned Notice on the ground that preparing reply/documents for submission requires additional time. The extension was granted till 00.00.0000. Copy of extension letter and letter granting extension are attached as ANNEX E-1 & E-2 respectively.
13. Vide letter dated 00.00.0000 and 00.00.0000, extension was requested on the same ground (ANNEX E-3 & E-4). However, no decision on the extension

application has been taken so far and in any event such extension request expires today i.e. 00.00.0000. The Plaintiff fears that the Defendant No. 3 can pass an Amended Assessment Order any day now. The Plaintiff has chosen to challenge the Impugned Notice vide this suit and not respond to the Impugned Notice on merits as otherwise it will be constrained to departmental proceedings.

14. That with respect to the issue of agency commission for Tax Year xxxx, an Amended Assessment Order, Notice of Demand and Appellate Order has been passed against the Plaintiff. Following the principle of consistency, the Assessing officer shall pass an adverse order and the Commissioner (Appeals) shall, hence, departmental proceedings are nothing but futile and illusory. Copy of the Amended Assessment Order along with Notice of Demand and Appellate Order for Tax Year xxxx are attached as **ANNEX F-1 and F-2** respectively.
15. That, being aggrieved by the Appellate Order, the Plaintiff filed an Appeal and Stay Application before the Appellate Tribunal Inland Revenue ("ATIR"). The ATIR vide Order dated 25.04.0000 allowed the Stay Application of the Plaintiff, however, subject to payment of 25 percent of the outstanding amount of recoverable demand. Copy of Grounds of Appeal and Stay Application filed before ATIR and its Order on Stay Application are attached as **ANNEX G-1 to G-3** respectively.
16. That the Plaintiff challenged the ATIR's Order on the Stay Application before the Honourable Sindh High Court vide Suit No. 00 of 0000. The Honourable Court was pleased to pass a final Order on 04.05.0000 with the direction that no coercive action be taken against the Plaintiff till its Appeal

before ATIR is adjudicated on merits of the case (ANNEX H). The Appeal before the ATIR is still pending adjudication.

17. That the Impugned Notice is *ultra vires* the Ordinance and is without lawful authority and of no legal effect. It is liable to be struck down.
18. That the Impugned Notice suffers from legal and jurisdictional infirmity. In the present matter, the Impugned Notice was issued under section 122(5A) of the Ordinance for purposes of amending the Plaintiff's return of income deemed as Assessment Order under section 120 of the Ordinance. However, such subsection is not applicable and was required to be issued under section 122(5) of the Ordinance. A Notice under Section 122(5) of the Ordinance requires that prior to amendment of the Assessment Order there must be definite information acquired from an audit or otherwise (such as requiring any person to furnish information in respect of any transaction under section 165(3) of the Ordinance which is prescribed by the Board or a similar investigative process). The audit of the Plaintiff's income tax affairs, therefore, had to have been carried out by either Defendant No. 2 or some other investigative process should have taken place to first establish that the commission is indeed a payment being made by the Plaintiff or alternatively being received from the agent. However, no audit was carried out and, hence, no definite information was obtained by the Defendant No. 3 before issuing the Impugned Notice.
19. That furthermore no enquiry under Section 122(5A) has been carried out either. The Defendant No. 3 is thus operating on pure guess-work and is not aware that no payment of Agency Commission has been made by the Plaintiff to advertising agencies.

20. That unlawfully and without any basis, the Defendant No. 3 chose to rely on the figure of Agency Commission being deducted from gross advertisement revenue in the Financial Statements of the Plaintiff for Tax Year xxxx and reached the conclusion that the Plaintiff did not deduct/deposit any withholding tax from payment of commission to the advertising agent. This is a mere presumption as the Defendant No. 3 has no evidence of any such expenditure having been incurred by the Plaintiff or the Plaintiff having received any such account from an advertising agent. As pleaded above amounts are received directly by the Plaintiff and the advertising agent from the customer respectively. Since the advertising agents' revenue is also mentioned in the invoice the Plaintiff shows the same in a Note of its financial statements for pure purposes of disclosure but does claim it as an expense or a deduction in its Income Tax Return. Independent auditors audit such financial statements. That the action of the Defendant No. 3, therefore, amounts to fishing and roving inquiry into the income tax affairs of the Plaintiff and inquiries this nature have been highly deprecated by the superior Courts.

21. That the Plaintiff's case does not fall within the ambit of section 233(1) of the Ordinance. The Plaintiff sells its advertising spaces to customers who use advertising agencies for this purpose as they negotiate deals for such customers with the Plaintiff. In return, the customer pays the Plaintiff for placing advertisements on its channel and pays commission to the advertising agency for its services. The payments are made by the customer and no payment is being made by the Plaintiff to the advertising agent. Hence, for the purposes of section 233 of the Ordinance, the principal is the customer and the advertising agency is its agent.

22. Furthermore, the Plaintiff is not the principal and neither the advertising agency is its agent. "Agent" and "Principal" are defined in Contract Act, 1872 as follows:

"Agent" and "principal" defined. An "agent" is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the "principal" .

It is manifestly clear that since the advertising agency works for and represents the customer and gets paid by it for its services, hence, it is incorrect (both factually and legally) to consider the Plaintiff as the principal of the advertising agency. Consequently, it is absurd and illogical for the Defendant No. 3 to place the burden of deducting withholding tax from payments made to the advertising agent on the Plaintiff when clearly no payments are being made by the Plaintiff nor is the advertising agent the agent of the Plaintiff.

23. That, in the light of the above, the Plaintiff is not incurring any expenditure (for purposes of section 20(1) of the Ordinance) in respect of agency commission. The Plaintiff is not making any payments to the advertising agent. Furthermore, the question of application of section 21(c) of the Ordinance in the present matter does not arise at all. As the customer pays 100 percent of the amount raised in the invoice (raised either by the Plaintiff and/or the advertising agent), after having deducted/paid the withholding tax, it also seeks to deduct the entire amount of agency commission as an expense from the computation of its income for purposes of income tax. Hence, it is illogical and erroneous on part of Defendant No. 3 to assume that the Plaintiff deducts the entire amount of agency commission as an expense from its income. This is not the case and the Income Tax Return of the Plaintiff clearly proves that no deduction of Commission is claimed.

Therefore, in essence the actions of the Defendant No. 3 also fall outside the scope of the Section 20 and 21 for the reason that the Impugned Notice seeks add a figure to the income of the Plaintiff that is not claimed as an expense or deduction in the first place. The Agency Commission is in fact an expense of the customer and not the Plaintiff and thus neither Section 20 nor 21(c) are applicable. Return of Income of the Plaintiff for Tax Year xxxx is attached as **ANNEX I.**

24. That the figure of Commission in the notes to the Financial Statements is indicative of the Commission advertising agents charge the customers and is simply contra-revenue. It is neither a deduction nor an expense and, therefore, the question of withholding or disallowing such expense is absurd. In fact the action of the Defendant No. 3 amounts to taking a figure which has nothing to do with the Plaintiff (other than as a figure on its invoice due to industry practice and added in its Financial Statement for disclosure purposes) and adding it to the Plaintiff's income thus making it liable to pay income tax on the income of advertising agents and on which the customer has deducted tax under Section 233(1) as the principal of the advertising agent while making payments.

25. That the Plaintiff raises an invoice for the commercial entity for 100 percent of the invoice. However, the Plaintiff shows in its invoice the bifurcation of payments to be made by the commercial entity in the ratio of 85 percent for the Plaintiff and 15 percent for the advertising agent. This is settled practice in the television and also print industry. The payment in the ratio of 85:15 is not just accepted industry-wide, but is also accepted and acknowledged by the Federal Board of Revenue ("FBR"). By way of background, under section 50(4) of the Income Tax Ordinance, 1979, (now replaced by the Ordinance) the advertising agents had to bear the burden of entire tax on the payments

received by them, which primarily consisted of payments received on behalf of their principals. Furthermore, such payments when remitted to the principals were once again subjected to deduction at source, thus involving deduction at two stages. Hence, the FBR, vide Circular No. 25 of 1980, decided that the payers making payments to the agents (who also receive payments on behalf of their principal) shall bifurcate the payments between the principals and agents in the ratio of 85:15 and deduct the tax accordingly (ANNEX J-1). The same invoice/payment mechanism was also reiterated in Circular No. 29 of 1999, wherein, it was suggested as follows:

“3. The issue has been examined by the Board and following revised procedure for deduction/ collection of withholding tax from advertising agencies under sub-section (4A) of section 50 of the Ordinance, has been laid down:-

- (a) The advertiser shall make payment in two parts- one for the advertising agency for commission amount of 15 percent of the total amount payable and the other for the balance 85 percent for the media; and*
- (b) The advertiser shall deduct tax at the rate of 10 percent out of payment to the advertising agency and deduct tax at 5 percent from payments to the media.” (ANNEX J-2)*

26. That Circular No. 25 of 1980 was issued at the time when there was only a single state owned channel. However, in year 1999 (vide Circular No. 29 of 1999) the FBR suggested the same payment mechanism thus demonstrating that the issue under discussion has been examined in detail on both the occasions and that such settled industry practice was carried forward even once the television industry was commercialised and privatised.

27. That the Defendant No. 3 primarily based his findings on the manner in which the amount of agency commission is reported in the Plaintiff's Financial Statements for Tax Year xxxx. In the audited Financial Statements, the agency commission is deducted from the advertisement revenue (as per

Note 19). It is reiterated that the agency commission, even though it is paid wholly by the commercial entity, is shown for the purposes of disclosure only (on the advice of auditors) and all the payments received by the Plaintiff from the advertisers are always net of agency commission mentioned in the invoices to commercial entity. Such practice of mentioning agency commission on the invoice has been followed by media industry since its inception and the same is still followed by state owned television broadcaster. Copy of Financial Statements for Tax Year xxxx are attached as **ANNEX K**.

28. That the Computerized Payment Receipt (“CPR”) dated 19.08.2008 of withholding agent *Wali Oil Mills Limited* (commercial entity) proves deduction of withholding tax from payments made to both the Plaintiff (at Serial No. 15) and the advertising agent (at Serial No. 17). The CPR dated 02.11.2011 of withholding agent *Master Enterprises (Private) Limited* (commercial entity) proves deduction of withholding tax from payments made to both the Plaintiff (at Serial No. 14) and the advertising agent (at Serial No. 20). Furthermore, Certificate of Collection/Deduction of Tax dated 08.09.0000 proves deduction of withholding tax by the withholding agent *Pakola Products Limited* (commercial entity) from payment made to the Plaintiff. Copy of CPR dated 19.08.2008 and 02.11.2011 and Certificate of Collection 08.09.0000 are attached as **ANNEX L-1 to L-3** respectively).
29. That the Defendant No. 3 has failed to understand the categorical accounting and taxation distinction between contra-revenue and an expense/expenditure. Commission in the Financial is the former and not the latter and, therefore, Section 20 and 21 of the Ordinance has no relevance. Invocation of section 21 (c) of the Ordinance, is therefore, without lawful authority and of no legal effect.

30. That the Defendant No. 3 has failed to even glance at the Income Tax Return of the Plaintiff and see that the Plaintiff has not claimed Commission of advertising agents or Agency Commission paid by the customer as an expense or a deduction. As stated this is claimed by such customers as their expense/deduction. Therefore and without prejudice, even if Section 233 did apply to the substance of the relationship between the Plaintiff and the advertising agency a disallowance of something which has not been claimed could not take place nor could Section 233 be utilized because no payment has been made by the Plaintiff to the Defendant No. 3 which would merit a deduction.
31. That furthermore, as pleaded above, no payment of Agency Commission has been made by the Plaintiff to the advertising agencies. Without any payment being made the provisions of Section 233 and Section 20 read with Section 21 (c) can simply not be justifiably invoked. An express payment must be made by the Plaintiff for such provisions of law to be attracted.
32. The Impugned Notice is guess work and is not based on any evidence that any payment of Agency Commission has been made by the Plaintiff. Just like sales tax it is invoiced but is not included in revenue because quite obviously it is not the revenue of the Plaintiff. This removal from revenue is what is claimed by the Defendant No. 3 as the claim of an expense, which demonstrates his complete lack of understanding of basic accounting and income tax procedure.
33. The Impugned Notice incorrectly states that the Plaintiff has claimed Agency Commission as an expense in its Financial Statements. No such expense has been claimed.

34. That the allegation in the Impugned Notice that the Plaintiff's Statements of withholding tax under Section 165 do not show any tax deducted on Agency Commission is stating the obvious and in fact goes in favour of the Plaintiff. First and foremost the statement under Section 165 is in respect of payments made. If no payment is made it is quite obvious that it will not be shown in such statement.
35. That following the departmental process in such circumstances shall be a completely futile exercise.
36. That the cause of action arose in the case of the Plaintiff on 19.12.0000 when the Impugned Notice was issued. The cause of action is continuous and remains unabated.
37. That the Defendant No. 2 and 3 are based at Karachi. The Defendant No. 1's presence is felt all across Pakistan. The cause of action has also arisen entirely at Karachi.
38. That the suit is valued at Rs. 500 million. The maximum Court Fees which is attracted to such valuation has duly been paid.

PRAYER

It is, therefore, most respectfully prayed in the interests of justice that this Honourable Court may be pleased to decree the suit in favor of the Plaintiff and against the Defendants jointly and severally in the following terms:

- (i) Declare that paragraph 1 of the Impugned Notice dated 19.12.0000 (**ANNEX D**) is *ultra vires* the Ordinance and has been issued without lawful authority and is of no legal effect.

- (ii) Pending the disposal of this suit, Suspend the operation of paragraph 1 of the Impugned Notice dated 19.12.0000 (ANNEX D).
- (iii) Grant a permanent injunction prohibiting the Defendants from taking any adverse action against the Plaintiff upon the basis of the Impugned Notice for Tax Year xxxx (ANNEX D).
- (iv) Grant any other relief that this Honourable Court deems fit and proper in the circumstances of the case.
- (v) Grant costs.

PLAINTIFF

ADVOCATE FOR THE PLAINTIFF

VERIFICATION

I, MN, son of NA, Muslim, Adult, resident of 0-0, Block-0, S Plaza, Gulshan-e-Iqbal, Karachi and the duly authorized attorney of the Petitioner do hereby verify on oath that the factual narration in the paragraphs above is based upon my instructions to Counsel and the same are true and correct to the best of my knowledge, while the legal submissions are true as per the advice received and believed by me to be true.

DEPONENT

CNIC No: 00000-0000000-0

Cell No: 0000-0000000

Documents filed: Annexures 'A' to 'L-3'

Documents relied upon: Abovementioned Documents and all other documents and correspondence relevant to the instant matter

Address of parties: As mentioned in the Plaint

Address of the Plaintiff's:

AAAA ADVOCATES
F-00/0, Block 0
KDA Scheme No.0, Clifton
Karachi.
Tel : 0000000-19
Fax : 0000000- 22

IN THE HIGH COURT OF SINDH AT KARACHI
(Civil Original Jurisdiction)

Suit No. _____ of 0000

CMA No. _____ of 0000

TV Network Limited

Plaintiff

VERSUS

Pakistan & Others

Defendants

APPLICATION UNDER RULE 110 OF THE
SINDH CHIEF COURT RULES (O.S.)

It is respectfully prayed on behalf of the Plaintiff above named that this Honorable Court may be pleased to hear and grant this urgent application and fix and hear stay application in Court/Chambers for orders on _____ February, 0000 otherwise the interests of the Plaintiff will suffer irreparably.

Karachi

ADVOCATE FOR THE PLAINTIFF

_____ February, 0000

IN THE HIGH COURT OF SINDH AT KARACHI
(Civil Original Jurisdiction)

Suit No. _____ of 0000

TV Network Limited

Plaintiff

VERSUS

Pakistan & Others

Defendants

AFFIDAVIT

I, MN, son of NA, Muslim, adult, resident of Karachi, do hereby solemnly affirm and declare on oath as under:

1. That I am the duly authorized officer of the Plaintiff in the above matter and as such am fully conversant with the facts of the case.
2. That the accompanying application has been drafted and filed under my instructions.
3. That the contents of the accompanying application may be treated as part of this affidavit for the sake of brevity.
4. That unless the accompanying application is granted the Plaintiff shall be seriously prejudiced and suffer irreparable loss and injury.
5. That whatever has been said above is true and correct.

DEPONENT

IN THE HIGH COURT OF SINDH AT KARACHI
(Civil Original Jurisdiction)

Suit No. _____ of 0000

CMA No. _____ of 0000

TV Network Limited

Plaintiff

VERSUS

Pakistan & Others

Defendants

APPLICATION UNDER ORDER 39 RULE 1 & 2 CPC

READ WITH SECTION 151 CPC

Respectfully sheweth:

1. That the Plaintiff have filed the title suit and there is every likelihood of its success. To avoid repetition, the contents of the Plaint may kindly be read as an integral part of this application.
2. That if the Defendants are not restrained, the Plaintiff will suffer irreparable loss and injury.
3. That the Plaintiff have a good prima facie case and hope to succeed in the same.
4. That the balance of convenience is also in favor of the Plaintiff.

PRAYER

It is, therefore, most respectfully prayed, in the interests of justice, that this Honourable Court may be pleased to Suspend the operation of paragraph 1 of the

Impugned Notice dated 19.12.0000 (ANNEX D) and prohibit the Defendants from taking any adverse action against the Plaintiff on its basis.

Ad interim orders in the same terms are also prayed for.

Karachi

ADVOCATE FOR THE PLAINTIFF

_____ February, 0000

IN THE HIGH COURT OF SINDH AT KARACHI
(Civil Original Jurisdiction)

Suit No. _____ of 0000

TV Network Limited

Plaintiff

VERSUS

Pakistan & Others

Defendants

AFFIDAVIT

I, MN, son of NA, Muslim, adult, resident of Karachi, do hereby solemnly affirm and declare on oath as under:

1. That I am the duly authorized officer of the Plaintiff in the above matter and as such am fully conversant with the facts of the case.
2. That the accompanying application has been drafted and filed under my instructions.
3. That the contents of the accompanying application may be treated as part of this affidavit for the sake of brevity.
4. That unless the accompanying application is granted the Plaintiff shall be seriously prejudiced and suffer irreparable loss and injury.
5. That whatever has been said above is true and correct.

DEPONENT

VAKALATNAMA
IN THE HIGH COURT OF SINDH AT KARACHI
(Civil Original Jurisdiction)

Suit No. _____ of 0000

TV Network Limited

Plaintiff

VERSUS

Pakistan & Others

Defendants

KNOW ALL, to whom these present shall come that I/We the undersigned do hereby appoint and authorize **MR. MAK**, Senior Advocate & **MR. HAK**, Advocate of the High Court (hereinafter called the Advocates) to be the Advocate for the ***PLAINTIFF*** in the above mentioned cause to do all the following acts, deeds and things or any of them, that is to say:

1. To appear, plead and act in the above mentioned cause in this Court.
2. To withdraw or compromise the said cause or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said cause.
3. To employ/appoint, nominate any other Advocate/Pleader or substitute on his/their behalf authorizing him to exercise the same powers and authorities hereby conferred on the Advocates as he may think fit to do.
4. And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he/they shall be entitled to withdraw from the prosecution of the said cause.

IN WITNESS WHEREOF I/We have hereunto set my/our hands to these presents the contents of which have been explained to and understood by me/us on this _____ day of February, 0000.

for TV Network Limited

RECEIVED by me/us on ____ February, 0000 from the Plaintiff
ACCEPTED subject to the terms mentioned above.

(MAK)
0000/HC/Karachi

(HAK)
0000/HC/Lahore

ADDRESS FOR SERVICE:

AAAA ADVOCATES
F-00/0, Block 0,
KDA Scheme No.0
Clifton, Karachi.
Tel: 021-00000000-00
Fax: 021-00000000-00

IN THE HIGH COURT OF SINDH AT KARACHI
(Civil Original Jurisdiction)

Suit No. _____ of 0000

TV Network Limited

Plaintiff

VERSUS

Pakistan & Others

Defendants

LIST OF DOCUMENTS

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9	Amended Assessment Order and Notice of Demand	03.02.0000	F-1	225-265
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Karachi

ADVOCATE FOR THE PLAINTIFF

____ February, 0000