

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
**SUIT NO. NIL / 2014**  
**M/s Road Tech (Pvt.) Ltd. V. M/s China International Water & Electric Company**

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DATE

ORDER WITH SIGNATURE OF JUDGE

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- 1) For orders on office objection at flag "A".
- 2) For orders on CMA No. 8858/2014.
- 3) For orders on CMA No. 8249/2014.
- 4) For orders on CMA No. 8265/2014.

**04.11.2019.**

Mr. Waseem Shaikh Advocate for Plaintiff.  
Mr. Iqbal Hussain Advocate for Defendant.

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1 & 2) Office objection regarding maintainability of this Suit for lack of territorial jurisdiction as well as CMA No. 8858/2014 filed by the Defendant for rejection and or return of plaint are coming up for orders since filing of this Suit pursuant to order dated 18.8.2014 passed by this Court.

Learned Counsel for the Plaintiff submits that though the Defendant reside outside the territorial jurisdiction of this Court; however, the Plaintiff is based in Karachi, whereas, the purchase order was issued and signed in Karachi therefore, this Court has jurisdiction.

On the other hand, learned Counsel for the Defendant supports the office objection and submits that this Court has no territorial jurisdiction as the Defendant resides in Punjab, whereas, the goods were also supplied in Punjab.

I have heard both the learned Counsel and perused the record. It is not in dispute that Defendant has its office at Faisalabad and issued a purchase order from the said address to the Plaintiff who has its office in Karachi. The dispute appears to be in respect of the alleged defective

supply of the product in question which has been rejected and the order has been thereafter issued to someone else. It needs to be appreciated that in cases like in hand, jurisdiction of this Court is primarily governed in terms of Section 20 which provides that every such Suit shall be instituted in a Court within the local limits of whose jurisdiction the Defendant voluntarily resides; or carries on business, and if not then the Defendant submits to such institution of the Suit or acquiesces; and in terms of sub-section (c); where the cause of action wholly; or in part arises. In this matter, the Defendant resides in Faisalabad, whereas, the goods have also been supplied in Faisalabad which appear to have been found defective as per the case of the Defendant. Merely for the fact that Plaintiff resides in Karachi and the purchase order was addressed to such address of the Plaintiff at Karachi, this Court will not have jurisdiction in the matter as the cause of action is in respect of the defective supply of goods to a Defendant who resides in Faisalabad. Indeed, it is elementary principle of law that for examining the question of maintainability of the suit with reference to or on the analogy of the provisions of Order VII, rules 10 and 11 C.P.C., the averments made in the plaint are to be taken as whole and with presumption of correctness attached thereto. But at the same time, it is also pertinent to mention that for determining the question of territorial jurisdiction with reference to the cause of action, whether accrued wholly or in part, the averments of the plaint are to be read in conjunction with the relief sought by a party in the suit and such reading of plaint should be meaningful, rational to the controversy and not merely formal<sup>1</sup>. The essential factor for determining of jurisdiction for the purposes of entertaining the Suit would be judged from the

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<sup>1</sup> Murlidhar P. Gangwani (Engineer v. Engineer Aftab Islam Agha and others) ([2005 MLD 1506](#))

contents of the plaint and the dispute subject-matter of Suit and not from the consequences flow from the Suit.<sup>2</sup>

In these circumstances, the office objection is sustained and the application of the Defendant is treated as an application under Order 7 Rule 10 CPC instead of Order 7 Rule 11 CPC; accordingly, the plaint is hereby returned. Office to act accordingly.

**J U D G E**

ARSHAD/

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<sup>2</sup> Haji Abdul Malik v Muhammad Anwar Khan (2003 SCMR 990)