

THE HIGH COURT OF SINDH, KARACHI.

RHC/PA/Cir.

Karachi Dated: 30-10-2013

CIRCULAR

The Hon'ble Chief Justice has been pleased to direct as follows;

1. This Circular shall apply to the present and all subsequent rosters unless otherwise directed by the Hon'ble Chief Justice. It applies only in respect of the category of cases that come under the designation of "commercial cases/suits" specifically mentioned as such for fixation purpose as per the roster in force for the time being.
2. The Circular seeks to establish the meaning of "commercial cases/suits" for fixation purpose and to give certain directions with regard thereto.
3. Subject to paragraph 4 below, proceedings shall be regarded as and be deemed to be a commercial case/suit if the principal matter directly and substantially in issue:
 - A. is a dispute arising out of the ordinary business of commercial concerns which is in relation to any transaction of trade, commerce or business between them while acting as such, and is in respect of:
 - a. a claim on or under, or for the enforcement of interpretation of, any mercantile agreement (oral or written) or document, including a mercantile agreement such as franchising, distribution, licensing or consultancy agreement;
 - b. export or import of merchandise;
 - c. carriage of goods;
 - d. mercantile agency;
 - e. arbitration; or
 - B. involves a claim, demand or action under Federal or Provincial fiscal law against a commercial concern; or
 - C. involves a dispute between a Federal or Provincial regulatory authority and a commercial concern in relation to any of its transactions while acting as such; or
 - D. is within a category declared by the Hon'ble Chief Justice or S.B-I (O.S) to be a dispute of a commercial nature: provided that such



declaration may be modified, varied or recalled at any time by the Hon'ble Chief Justice.

Explanation-I: It is irrelevant for purpose of this paragraph whether the commercial concern is in public or private sector.

Explanation-II: "commercial concern" includes (i) a merchant banker, trader, firm, company or any other business concern, person or entity; (ii) a professional person, firm or entity for purpose of subparagraphs (B) or (C); (iii) a trade body or association of any of the foregoing.

4. A matter that falls naturally or more closely in any other categories of cases specifically mentioned in the Roster applicable for the time being (e.g. intellectual property, company matters, banking, etc.) shall be regarded as coming under that category and be dealt with as such, notwithstanding that it may also be commercial case/suit.
5. If a question arises as to whether a particular case/suit comes within scope of paragraph 3, the decision of S.B-I(O.S) shall be final, and such decision may be taken at any time, either suo moto or on application of any of the parties or on a suitable note being put up by the office, without notice to any, or the other party or parties (as the case may be).
6. Note 4 of the Roster states: "Commercial Cases will be given priority over the other matters". This priority will be kept in mind while taking up cases for hearing and/or giving fixed dates and/or fixed time for hearing.
7. All circulars, directions and orders relating to the case management and fixation of cases shall be applied only in a manner consistent herewith, for which purpose S.B-I (O.S) may issue directions from time to time.
8. This Circular may be varied or supplemented in any or all respects at any time by subsequent directions that may be issued by S.B-I (O.S) with the concurrence of the Hon'ble Chief Justice.


REGISTRAR

Copy forwarded to:

1. The Secretary to the Hon'ble Chief Justice.
2. The Additional/Deputy and Assistant Registrars of Judicial Branches of this Court
3. The Additional Registrars High Court of Sindh, Bench at Sukkur and Circuit Courts Larkana & Hyderabad.
4. All the Readers to the Hon'ble Judges, for placing before their lordships.
5. The Director I.T of this Court for publication on the website of this Court.