

**BEFORE THE APPELLATE TRIBUNAL OF PUNJAB
REVENUE AUTHORITY, LAHORE (BENCH-II)**

Appeal No. 139/2023

M/S HRSG OUTSOURCING (PVT.) LIMITED

Vs

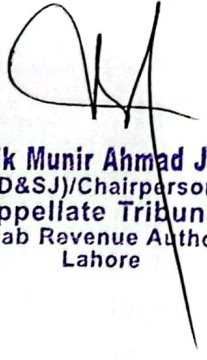
COMMISSIONER (APPEALS-I), PRA, LAHORE. ETC.

Date of Institution: 14.10.2023

Date of Decision: 07.01.2025

Present: Zeeshan Chishti Advocate, counsel for the Appellant.
Mr. Muhammad Afzal, Deputy Secretary (legal-II)/DR
for the Respondents.

Order: Brief facts of the case are that M/s HRSG Outsourcing (Private) Ltd (hereinafter be called **appellant**) is registered with Punjab Revenue Authority (**PRA**) vide PNTN-2829881-7 and is rendering manpower recruitment agent services, that the services provided by the appellant are taxable vide serial number 26 of the Second Schedule to the **Act**, that it revealed during scrutiny of the Punjab Sales Tax (**PST**) returns filed by the appellant for the tax periods starting from 01.06.2016 to 31.05.2020 that the appellant had claimed inadmissible input tax to the tune of Rs. 58,137,097/- in sheer violation of section 16B (1)(j) of the **Act**, that due to this the appellant was issued a show cause notice (**SCN**) dated 14.01.2021 wherein the appellant was charged with the violation of provision of section 16 (b)(1)(j) of the **Act**, that the appellant, in its reply to the **SCN**, rejected the allegation confronted via above referred **SCN**, however, being dissatisfied with the reply of the appellant, the assessing officer passed the order dated 12.04.2021 and determined an amount of Rs. 59,793,417/- as the amount of PST not paid by the appellant.


Malik Munir Ahmad Joiya
(D&SJ)/Chairperson
Appellate Tribunal
Punjab Revenue Authority
Lahore

2. The appellant, being dissatisfied, has assailed the said order by way of filing the first appeal under section 63 of the Act on various legal and factual grounds which was dismissed by first appellate court through impugned order dated 07.08.2023.
Hence, this appeal.


Nazia Ashfaq Sheikh
Member
Appellate Tribunal
Punjab Revenue Authority
Lahore.

3. Main argument counsel for the advocate/authorized representative is has argued that the order of the assessing office is time bard and is not sustainable in the eye of a law but this

face was ignored by the first appellate court, that this court may kindly appreciate the said time bar factor qua assessment order, that appellant is registered with PRA as a service provider and he used to provide services to Nestle factory at Khanewal in the shape of labor, that it was agreed with the appellant and the administration of the said factory, that the administration will provide food and other requirements to the labor and provide the amount against the said services to the appellant that the appellant, used to pay 16% PST to PRA and this fact was admitted by the said company that the food bill of the labor is also included in the amount pay to the appellant, that appellant is entitled to claim/adjust the said tax, that this fact was ignored by the assessing officer and the first appellate court that the appeal is liable to be accepted.

4. Learned counsel the above said argument was controverted by learned DR with the contention that it is law is very clear and if the appellant took the whole amount against all the services as provided to the appellant including food to the labor etc. then to as per law the appellant, cannot adjust the said amount, that the issue of time factor is also against the record because the order was announced on 12.04.2021 which is well within time, that appeal is liable to be dismissed.


Malik Munir Ahmad Joiya
 (D&SJ)/Chairperson
 Appellate Tribunal
 Punjab Revenue Authority
 Lahore

5. **Arguments heard record perused.**

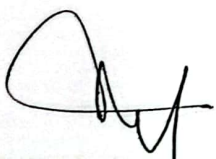
6. First, we take up the issue of limitation qua passing the order of assessing officer. The record reveals that the show cause notice was issued on 14.01.2021 and the matter was decided by the assessing officer on 12.04.2021. From the said situation the order is well within time because as per section 24 of the Act same is to be announced within 120 days and in case of extension of period, further 60 days can be included in total and the assessing officer cannot go beyond 180 days as per previous law before the amendment in Punjab Finance Act 2022 (IX of 2022) from this Act. The order of the assessing officer is well within time, but the stance of counsel for the appellant is that they received the order of the assessing officer on 09.09.2021 and the limitation period for 180 days is to be started after receiving the order on the part of appellant to that the announcing the order


Raza Ashfaq Sheikh
 Member
 Appellate Tribunal
 Punjab Revenue Authority
 Lahore.

on 12.04.2021. To address the said situation the relevant section 24(3) wherein as per previous law before 2022, it was provided as under:

“An order under sub-section (1) shall be made within one hundred and twenty days of issuance of the show cause notice or within such extended period as the officer may, for reasons to be recorded in writing, fix provided that such extended period shall ordinarily not exceed sixty days.”

7. The plain reading of said previous provision which is applicable to the case in hand qua time period to pass the order on the part of assessing officer reveals that word “made” has been provided there and said word can’t be stretched toward delivering of the copy of the order to the appellant. When the order is announced then it is presumed that it was announced in open court prior to writing it and in the open court the proceeding officer signed it. This is the requirement of law. How can we agree with counsel for the appellant that the assessing officer did not announce his order on 12.04.2022 and the said order was actually announced subsequently, and said date was inserted to cover up the delay.


Malik Munir Ahmad Joiya
 (D&SJ)/Chairperson
 Appellate Tribunal
 Punjab Revenue Authority
 Lahore

8. Presumption of truth is attached to the judicial record to that of the oral assertion as made by counsel for the appellant before this bench. Anyhow, if the situation was so then the appellant must be equipped with the material, that on that date the said order was not announced and the same was announced subsequently to prove the said situation. The appellant can collect the video clip in the said situation and pics of the court record etc, on which it can be believed that the assessing officer has passed the order on subsequently. The apprehension of the appellant, that the same was actually announced on 09.09.2021 on which the order was received to him


Raza Ashfaq Sheikh
 Member
 Appellate Tribunal
 Punjab Revenue Authority
 Lahore.

is not considerable. The argument of the appellant, that the limitation will start when the assessing order will be received to the appellant is justified, but how it can be proved that the order was not announced on 12.04.2021. There is no logic in the said

argument so we can't agree with the learned counsel for the appellant that the assessment order is time bard and void.

9. Now we proceed to the second argument of counsel for the appellant qua entitlement of adjustment of input tax paid on food etc. To address the said situation the relevant provision of law is provided in section 16(B)(j) of the Act.

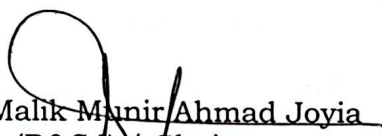
“Food, beverages, garments, fabrics or others and consumption on entertainment, amusement, recreation or enjoyment;”

10. The aforesaid provisions of law categorically provides that input law adjustment in respect of food etc. is not admissible to the appellant.

11. In light of the said discussion, this Bench came to the conclusion that this appeal is meritless and the same is hereby dismissed. Registrar of this Tribunal shall communicate the copy of this order to the appellant and learned Commissioner (Appeals) as per section 67(6) of the **Act**. The file be consigned to record room after compilation.

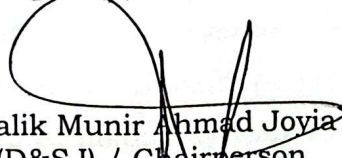
Announced
07.01.2025


Raza Ashfaq Sheikh
Accountant Member
Appellate Tribunal
Punjab Revenue Authority
Lahore


Malik Munir Ahmad Joyia
(D&SJ) / Chairperson
Appellate Tribunal
Punjab Revenue Authority
Lahore

Certified this order consists of four pages. Each page is dictated, corrected, read over and signed by us.


Raza Ashfaq Sheikh
Accountant Member
Appellate Tribunal
Punjab Revenue Authority
Lahore


Malik Munir Ahmad Joyia
(D&SJ) / Chairperson
Appellate Tribunal
Punjab Revenue Authority
Lahore