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**APPELLATE TRIBUNAL INLAND REVENUE, LAHORE BENCH,
LAHORE.**

**ITA No.1302/LB/2014
(Tax Year 2009)**

M/s. Rawal Textile Mills Ltd., Lahore.

...Appellant

Versus

The CIR, Zone-I, RTO, Lahore.

...Respondent

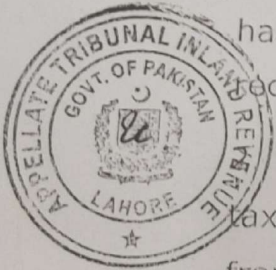
Appellant by: Mr. Faisal Iqbal Khawaja, Advocate
Respondent by: Mr. Tahseen Muzafar, DR

Date of Hearing: 07.12.2015

Date of Order: 07.12.2015

ORDER

Nazir Ahmad, (Judicial Member): The titled further appeal pertaining to tax year 2009 filed at the instance of the taxpayer has been directed against the appellate order dated 31.12.2013 recorded by CIR(Appeals-II) Lahore.

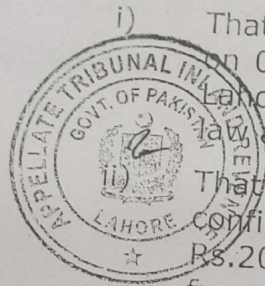


The facts in brief leading to the instant appeal are that the taxpayer/appellant, a private limited company, derives income from running a textile unit. Original assessment for the year under consideration was finalized u/s 161/205 of the of the Income Tax Ordinance, 2001 (hereinafter called 'the Ordinance') by treating the taxpayer company as taxpayer in default. The said treatment was challenged in appeal before CIR(Appeals), who vide order dated 30.09.2011 remanded the case for denovo proceedings. In compliance with the said order, the taxation officer initiated re-assessment proceedings by way of issuance of notice u/s 124/161/205 of the Ordinance dated 11.03.2013, which was partially complied with by the taxpayer. Resultantly, the proceedings culminated in passing of order u/s 124/161/205 of the Ordinance dated 30.06.2013 creating a tax demand of Rs.7,867,309/- for the year under consideration. Feeling aggrieved, the taxpayer preferred appeal before CIR(Appeals-II) Lahore, which was disposed of as under:-

- i) Addition made on account of purchase of Raw Material was upheld.

- ii) Addition made on account of Salaries & Wages was upheld.
- iii) Addition made on account of Travelling & Conveyance was deleted.
- iv) The case on the issue regarding addition made on account of Packing Material & Store Consumption was remanded.
- v) Addition made on account of Freight & Carriage Expenses was upheld.
- vi) Addition made on account of Forwarding Expenses was upheld.

--- Still discontented, the taxpayer has come up in further appeal before this Tribunal on the strength of following grounds taken as per memo of appeal:-



- i) That order No.40 dated 31.12.2013 received on 04.06.2014 passed by the CIR(Appeals-II), Lahore against order u/s 124/161/205 is bad in law and on the facts of the case.
- ii) That the CIR(Appeals-II), Lahore has wrongly confirmed surcharge charged u/s 221 Rs.200,035/- on purchases of raw material from sister concern.

- iii) That the CIR(Appeals-II), Lahore has erred in confirming the following tax charged on:-

a)	Salaries & Wages.	Rs.1,134,617/-
b)	Legal & Professional Charges.	Rs. 9,884/-
c)	Packing Material.	Rs. 62,381/-
d)	Freight & Cartage.	Rs. 19,317/-
e)	Forwarding Expenses.	Rs. 45,654/-
TOTAL:		Rs.1,271,853/-

Ground No.(i)

3. This ground of appeal being formal in nature does not warrant adjudication by us.

Ground No.(ii)

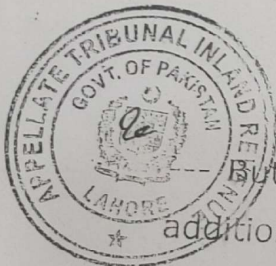
4. On the issue under consideration, the learned counsel appearing on behalf of the taxpayer has apprised the court that after receiving order u/s 124/161/205 of the Ordinance dated 30.06.2013, the taxpayer filed an application dated 14.07.2013 seeking rectification of the same, which was disposed off vide order u/s 221 of the Ordinance, wherein surcharge amounting to Rs.200,035/- was charged on purchase of raw material from sister concern. The learned counsel also requests for

adjudication against the issues involved in the said rectification order. When he was asked that whether the said rectification order was challenged in appeal before the first appellate by way of filing separate appeal, he apprised the court that no separate appeal was filed by the taxpayer. Therefore, request made by the learned counsel cannot be acceded to at this stage for the reason that against the said rectification order, the taxpayer was required to file a separate appeal before the first appellate authority. Since, the taxpayer has not fulfilled his legal obligation, therefore, the above said rectification order cannot be discussed.

Ground No.(iii)

5. Through this ground the following additions have been agitated as per memo of appeal:-

a)	Salaries & Wages.	Rs.1,134,617/-	<i>Selected</i>
b)	Legal & Professional Charges.	Rs. 9,884/-	
c)	Packing Material.	Rs. 62,381/-	
d)	Freight & Cartage.	Rs. 19,317/-	
e)	Forwarding Expenses.	Rs. 45,654/-	
TOTAL:		Rs.1,271,853/-	



But during the course of hearing, he has only contested the addition made under the head 'salaries and wages' whereas rest of the additions have not been pressed.

6. On the issue under consideration, the learned counsel has vehemently argued that while making the said addition the taxation officer failed to pin point any specific instances of un-verifiability, which is against the established norms of justice and addition has been based on assumptions and presumptions. On the other hand, learned DR has termed the action of both authorities below to be justified.

7. We find force in the line of arguments adopted by learned counsel. We are also of the considered opinion that while making the impugned addition the taxation officer was legally bound to point out specific instances of un-verifiability but he failed to do so. Therefore, such like action on behalf of the departmental authorities being based on guess work cannot be endorsed by us at all being against the established norms of justice as this



Tribunal in a number of judgments has discouraged such like attitude. Therefore, in the light of foregoing discussion, we have no option except to delete the addition made under the head 'salaries and wages'. We order accordingly.

Sd/-
(NAZIR AHMAD)
Judicial Member

Sd/-
(MASOOD AKHTER SHAHEEDI)
Accountant Member

Gulfam

Copy of the Bench order forwarded to

1. The Appellant..... *M/S Rawal Textile Mills Ltd Lahore*
2. THE CRL,

By order

Jahan Ali
Assistant Registrar
Appellate Tribunal Inland Revenue
Lahore.
03.2.16