

BEFORE THE APPELLATE TRIBUNAL INLAND REVENUE,
LAHORE BENCH, LAHORE

STA No.1212/LB/2015

The CIR, RTO, Lahore.

...Appellant

Versus

M/s. Scientific Technical Corporation (Pvt)
Ltd, Lahore.

...Respondent



Appellant by : Mr. Bilal Hussain, DR.
Respondent by : Mr. Faisal Iqbal Kh., Advocate.
Date of Hearing : 14.12.2022
Date of Order : 03.01.2023

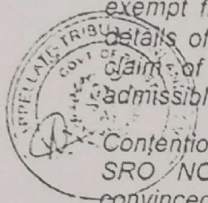
ORDER

AEYSHA FAZIL QAZI (Judicial Member): Through titled appeal the department has assailed order dated 24.06.2015 passed by the learned CIR(Appeals-III), Lahore on the following grounds:-

1. That the order passed by the learned CIR(Appeals) Lahore is bad in law and contrary to the facts and circumstances of the case.
 2. That the learned CIR(Appeals) ignored the facts of the case whereas the taxpayer claimed illegal adjustment of input tax amounting to Rs.1,461,632/- against exempt supplies which is violation of Sections 6, 7, 8, 10, 13 and 26 read with the Sixth Schedule of Sales Tax Act, 1990 & read with Chapter IV (Apportionment of input tax) of Sales Tax Rules, 2006 vide SRO 555(I)/2006 dated 05.06.2006.
 3. That the learned CIR(Appeals-II) misconcluded/ misconceived the facts of the assessment order where the registered person has failed to provide the withholding tax deduction certificates in terms of Rule 8 of Sales Tax Special Procedure (Withholding) Rules, 2007 notified vide SRO 660(I)/2007 dated 30.06.2007.
 4. That the learned CIR(Appeals-II) misconcluded/ misconceived the facts of the assessment order where the registered person has failed to provide the required record/ documents on receipt of third notice issued by this office which is violation of Section 25 of the Sales Tax Act, 1990.
2. Facts in brief are that audit for the tax periods 07/2012 to 06/2013 was conducted and certain discrepancies were noted. The said short falls were confronted through show cause notice and

consequently ONO NO.11/2015 dated 30.03.2015 was passed. Being dissatisfied the taxpayer filed appeal and the CIR(A) disposed of the same in the following manner:-

"I have gone through the contentions as raised by the learned A.R and the legal provisions relating to Sixth Schedule, I am in full agreement with learned A.R that hospital supplies are exempt from levy of sales tax and from the examination of details of supplies made by the company it is clear that the claim of input tax as made by the company was fully admissible, hence, the liability created is deleted.



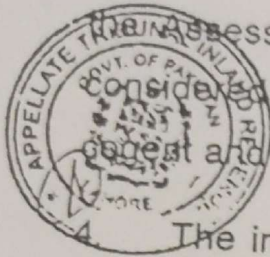
Contentions raised by the learned A.R and bear readings of SRO NO.648(I)/(2013) dated 9 July, 2013, I am also convinced that the supplies were made to Government Departments as end consumer are exempt from deduction of tax, there is no default on account of non-payment of further tax chargeable on these exempt supplies. Hence, the same is deleted.

Considering the arguments put forth by the appellant, the legal provisions of Section 73 of the Sales Tax Act, 1990, I am in full agreement with the learned A.R that the supplies were made to Government Departments and other well reputed organizations who make payments through proper banking channel. And further that no government department makes any payment without deduction of sales tax as well as income tax and the buyers of Government sector as well as private sector being withholding agents deducted sales tax and income tax and deposited the same in the government treasury, therefore, addition made on account of withholding sales tax is illegal, uncalled for and unjustified and the rectification as required the auditor is uncalled for, unjustified and legally no permissible. Hence, the resultant demand is deleted.

I have gone through the contentions as raised by the learned A.R, I am in full agreement with the learned A.R that the penalty of Rs.65,000/- levied u/s 25 of the Sales Tax Act, 1990 is unjustified and illegal as the proper record was duly provided which was not considered before finalization of the order. Hence, the resultant demand is deleted."

3. Arguments considered and record perused. Perusal of impugned order reveals that show cause notice was issued on 20.03.2015 for compliance on 25.03.2015. On that date partial compliance was made and the next date was fixed for 25.03.2015. As per record since on that date none attended, ONO No.11/2015 dated 30.03.2015 was finalized. It is rightly held by the CIR(A) that

assessment was finalized in haste providing only 10 days in toto. Therefore, action of the Assessing Officer on this score is not sustainable. We have further noted that most of supplies are relating to Sixth Schedule/ Government Department, therefore, the action of the Assessing Officer was not justified. We are, therefore, of the considered opinion that the findings recorded by the CIR(A) are correct and do not call for any interference.



The impugned order is upheld and the departmental appeal is rejected.

SD/-
(AEYSHA FAZIL QAZI)
Judicial Member

SD/-
(DR. SHAHID SIDDIQ)
Accountant Member

Copy of the bench order forwarded to

1. The Appellant.....
2. THE CIR,
By order

Assistant Registrar
Appellate Tribunal Income Tax
Mumbai.

11/01/23

Technical cooperation with