

BEFORE THE APPELLATE TRIBUNAL SINDH REVENUE BOARD

Appeal no: 42/2017

International Credit Information LTD..... Appellant
VERSUS
Commissioner- III SRB..... Respondent
Mr. Amin Malik F.C.A and Mr. Mohsin Waheed..... For Appellant
Mr. Rashid Ali A.C S.R.B..... For Respondent
Date of hearing: 31-01-2019
Date of order: 23-04-2019

ORDER

Mr. Muhammad Ashfaq Balouch:

Present appeal has been filed by the above named appellant, challenging order in appeal No: 43/2016 dated 27th-May-2017(hereinafter referred to as OIA) passed by Commissioner (Appeals) SRB, whereby Order In Original No: 693/2015 dated 04th-January-2016 (hereinafter referred to as OIO), passed by Assistant Commissioner Unit-20 SRB Karachi was confirmed but order regarding penalty was conditionally modified.

Brief facts as disclosed in the order in appeal are reproduced here as under:-

“The fact of the case are that the respondent held after due process of compulsory registration under section 24B of the Sindh Sales Tax on Services Act, 2011 that the appellant is engaged in providing and rendering the “business support services”, classified under the tariff heading 9805.9200 of the 2nd schedule to the Sindh Sales Tax on Services Act, 2011 (hereinafter referred as “the Act, 2011”) and also imposed a penalty of Rs: 100,000/-. The plea of the Appellant (submitted through a letter) that the Appellant is primarily engaged in providing credit



[Handwritten signature]

information and other related services to their customers and is involved in providing business marketing services, distribution of business information report to the companies and that therefore the appellant is not required to pay the tax, was rejected.

The appellant felt aggrieved, filed this appeal and agitated following grounds:-

1. The Order In Original No. 69/2016 dated May 27, 2017 (hereinafter referred to as the impugned order) is bad in law and on facts of the case.
2. The commissioner (appeals) has erred in maintaining the order in original requiring compulsory registration of the appellant under the category of "Business Support Services" tariff heading no 9805.9200.
3. The Commissioner (Appeals) has erred in upholding the action of the assistant Commissioner (AC) in classifying the activity of the appellant providing **business information reports/credit reports and search reports** under "Business support services", whereas these service are covered under the specific heading of "**Data Processing and Provision of information,....**" In the first schedule to the Act (List of services) which heading is not covered under the second schedule (Taxable services) in the year relevant to this appeal.
4. The commissioner (Appeals) has erred in maintaining the treatment of the AC in classifying the activity of "**Debt collection services**" under "business support services" instead of the specific heading "debt collection agencies" in the first schedule to the act which heading was not covered under the second schedule (taxable services) in the period under appeal. It is submitted that



MB

subsequently the appellant got registration for "debt collection services" under tariff heading 9844.0000 w.e.f July 1, 2016 when the finance act, 2016 introduces the said services in the second schedule to the Sindh sales tax on services act, 2011.

5. The commissioner appeals erred in misreading and misinterpreting appellants' agreement with DUNS & BRADSTREET SAME LIMITED (D&B) as that of providing distribution and marketing services to D&B and thereby holding it to be "Business Support Services". It is submitted that the AC has ignored the very substance of the agreement as contained in **clauses 5 and 6 read with schedule 1 and 2** which is purchase of information from D&B for supply to appellant's customers in Pakistan and providing information of Pakistani entities to D&B for D&B's customers outside Pakistan.
6. The commissioner (Appeals) has also misconstrued appellant submission that the agreement with D&B ceased to exist during the financial year 2012-2013 (remains in force up to September 2013). It is submitted that the appellant during the relevant period (July to September 2013) earned revenue of Rs 833,000 from D&B by providing information relating to Pakistani entities to D&B (a foreign entity) for sale to its customers outside Pakistan. This activity cannot be classifiable as Business support services as envisaged in the law.



7. The commissioner appeals has erred in assuming services of providing "**search reports**" based on the market study of the business which is covered under the heading 9805.9200 of Business Support Services. In fact appellant provides **search report** relating to information contained in Form 'A', from 29 and from regarding registered charges relating to an entity to its customers filed with SECP which is covered by the heading of "Data processing and provision of information".

MB

8. The commissioner (Appeals) has erred in assuming that verification of data of salary and income as provided by customers falls under the ambit of "valuation of prospective buyers, fulfillment services, [processing of transaction etc." being part of business support services. It is submitted that such services of **Verification of data** by checking the underlying documents and visiting the employer/location which is covered the underlying documents and visiting the employer/location which is covered by the heading of "data processing and provision of information".
9. The commissioner (appeals) has erred in maintain the levy of penalty of Rs 100,000 under clause 1 of the table to section 43 of the Act.
10. The appellant craves leave to, add to, amend or alter any of the above grounds of appeal.

Mr. Amin Malik FCA for the appellant has argued that appellant is engaged in providing (i) Credit information and related services to his customers in the form of business information report from the data bases maintained by the company or other third party data bases. (ii) Validation of data provided by the customers and (iii) debt collection services for its customers. It was further argued that Commissioner Appeal while determining the nature of services, information provided by the appellant in its financial statements, has erred in misreading and misinterpreting the broader agreement. It was also argued that appellant company is engaged in generating business/credit information reports for its customers from the data bases created and maintain by the appellant, as well as information relating to foreign business forum databases of others third parties. The appellant constantly used to develop/update its database. And provide these information to public, private companies and partnership firms which are engaged in large scale, small scale manufacturing, commercial, import, export, whole sale/retail and service businesses for this purpose appellant maintains the following databases.



AM

- I. Credit information i.e. financial and corporate information database,
- II. Registered charged database.
- III. Corporate and individuals defaulters' and payment history database.
- IV. Court public notices database.
- V. And property search database.

These databases are continuously updated enhanced by making regular inputs relating to various businesses which shows that creation of databases is not on the request of customers therefore, it could not amount carrying out a business support service and which doesn't falls under main heading 98.05. But services provided by the appellant are separately identify as data processing and provision of information which falls under tariff heading 9824.0000 of the 1st schedule to the SST Act 2011. It was also argued that the term data processing and provision of information has not been defined in the act or the rules made there under, therefore, in view of legal principles its dictionary meaning has to be relied upon to find its meaning. The term data processing has been defined in Wikipedia "the collection and manipulation of items of data to produce meaning full information" and this database processing may involve various processors including:-

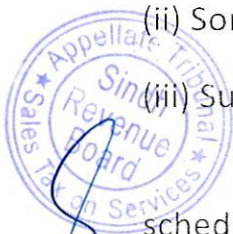
(i) Validation (ensuring that supply data is correct and relevant.

(ii) Sorting (arranging items in some sequence or in different sets.)

(iii) Summarizing reducing retail data to its main points.

The appellant is not providing any of the services listed in 2nd schedule to the SST Act 2011, therefore, not required to be registered either voluntarily (under section 24) or compulsory under section 24B).

Learned D.R has argued that the definition of "Business Support Services (BSS) as provided in term of Section 2(19) of S.S.T. Act 2011, covers the services rendered by the appellant. The appellant has not



MB

offered any cogent reason or any legal reason that he could be excluded from the ambit of BSS. It was also argued that appellant entered into Distribution Agreement with Dun and Bradstreet (Singapore) PVT Ltd (D and B) and under clause A of that agreement D and B collects business and marketing information on a worldwide basis in a web based data Pool of server which one situated in New Jersey U.S.A. And under clause B the appellant, in a close, Cooperative relationship with D and B, offer and provide customers in Pakistan the type of Business and marketing information service offered by D and B. under Clause C,D and B permits the appellant to distribute cross border business and marketing services and reports and Publication prepared by D and B. it was also argued that note 18 of Financial Statement for the year ended June 2014 shows that appellant has booked income from D and B. appellant as per agreement with United Bank Ltd of Pakistan, dated, 20-2-2015 provides the bank with "Search reports on retail banking group, Corporate and Commercial banking group and Agri Customers. These services are Business Support Services and taxable under heading "Business Support Services-9805.9200. Further appellant also entered into agreement with Askari Bank Ltd on 17-5-2013. Article 8 of the agreement that appellant is required to "Ascertain and/or verify the income of the Customer and potential Customers of the Bank, business addresses Phone number and identify of the Customers. All these services rendered by the appellant are Business Support Services.



I have heard both the parties at length and perused the record.

It is admitted position that appellant is providing data information reports to its customer from data bases created and maintained by appellant. Appellant maintain the following databases.

- (i) Credit information i.e. financial and corporate information database.
- (ii) Registered charged database.
- (iii) Corporate and individual defaulters and payment history database

- (iv) Court public notice database
- (v) Properties search database

The contention of appellant is that service mentioned supra are data processing and provision for the information falls under tariff heading 9824.0000 of the First Schedule to the Sindh Sales Tax On Services Act 2011. And appellant is not providing any of the services listed in the Second Schedule to the Act.

Respondent/department stated that services as per different clause of agreements provided by the appellant are business support services. The financial accounts of appellant for the year 2014 shows that appellant had a business with D and B and certain revenue in this regard was booked in the accounts. And Services provided by the appellant under agreement with different customer are business support services.

To appreciate the agreement of both the sides it would be just and proper to reproduce here as under the definition of "Business Support Services" as given in sec 2(19) of Act 2011. "Business Support Service" means Services provided in relation to business or Commerce and includes evolution of Prospective buyers, Telemarketing, Call center facilities, accounting and processing of transitions, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics customers relationship, management services, operational assistant for marketing formulation of customers services and pricing policies, infrastructural support services and other transaction processing.

It also admitted fact that appellant as per clause (A) of agreement with the D and B, collects business and marketing information worldwide bases in a web-based data pool, under clause (B) of the agreement the appellant has desired to offer the customers of D and B within Pakistan the different type of business and marketing information.

In agreement with M/s Askari Bank Ltd, as per article 8 the scope of work is to:-



WB

- i. To ascertain and/or verify the income of the customers and potential customers of the bank as may be referred to you (the bank) from time to time.
- ii. To verify the business address, phone number and identity of the customers of potential customers;
- iii. To advise the bank as to whether the income of any customers and potential customers can be estimated and in this connection, to visit such customers and potential customers.
- iv. where incomer verification is possible, to provide to the bank a detailed income estimation report in respect of the customers or potential customers in such formats as may be prescribed from time to time, by the bank';
- v. n estimating the income of any customers or potential customers, due diligence will be applied, however, a responsible tolerance level between actual and estimated income will be accepted by the bank."

So far agreement with M/s United Bank Ltd is concerned, the appellant provided following business support services.

"provided the bank with Search Reports on Retail Banking Group, Corporate & Commercial Banking Group, and Agri (where applicable Customers, and assist the Bank in defining and implementing mutually agreeable credit standards for the appraisal of the credentials and creditworthiness of such persons who may have entered or be inclined to enter into financing agreements with the bank."

It transpired from these agreement that appellant provided following business support services in relation to the business and commerce.

- (i) To ascertain or verify the income of the customers and potential customers of the Bank.
- (ii) To verify the business address, phone number and identify of the customers.
- (iii) To provided Bank a detailed income estimation reports of customer.



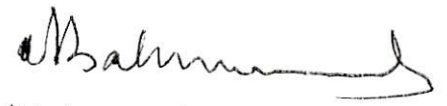
Handwritten signature

- (iv) To provide the Bank with Search Reports or retail Banking groups.
- (v) Debt Collection Services.

It is evident from above agreements with different customer that appellant provided business support services as defined in sec 2 (19) of Act 2011. And Learned Commissioner Appeals rightly opined that appellant provided the "Business Support Services" and such revenue was booked by the appellant as mentioned in para 5 of order In Appeal.

In view of above fact, circumstances and discussion the Learned Commissioner Appeal Rightly observed that appellant provided "business support services". Which falls under tariff heading 9805.9200 of the Second Schedule to the Sindh Sales Tax on Services Act 2011. Therefore, impugned order of Learned Commissioner is proper and does not require any interference.

Consequently, present appeal being without merits, stand dismissed.



(Muhammad Ashfaq Balouch)

Judicial Member

Copies Supplied to:

1. The Appellant through Authorized Representative.
2. The Deputy Commissioner (Legal) SRB
3. The Assistant Commissioner, SRB for compliance
Copy for information
4. The Commissioner Appeals, SRB
5. Guard File
6. Office File

Certified to be True Copy



REGISTRAR
APPEALS TRIBUNAL
SINDH REVENUE BOARD

Order issued on 25/4/19

Registrar

Order Dispatched on 25/4/19

Registrar