

BEFORE THE APPELLATE TRIBUNAL SINDH REVENUE BOARD AT KARACHI

DB-I

APPEAL NO. AT-05/2018

M/s Intercos .....Appellant

**Versus**

Assistant Commissioner, SRB, Karachi.....Respondent

Mr. Rizwan Attara Representative for Appellant

Ms. Sania Anwar, AC. SRB, Karachi for Respondent

Date of filing of Appeal: 19.02.2018

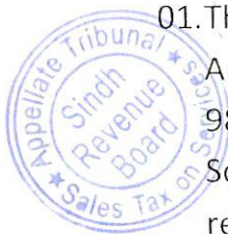
Date of hearing: 20.07.2018

Date of Order: 20.07.2018

ORDER

**Justice<sup>®</sup> Nadeem Azhar Siddiqi:** This appeal has been filed by the appellant challenging the Order-in-Appeal No.72/2018 dated 17.01.2018 passed by the Commissioner (Appeals) in Appeal No. 19/2017 filed by the Appellant against the Order-in-Original No. 24/2017 dated 02.02.2017 passed by the Assistant Commissioner (Ms. Sania Anwar) SRB, Karachi.

01. The facts of the case as mentioned in the Order-in-Original are that the Appellant acquired taxable services of Advertisement Tariff Heading 98.02 and Advertising Agent Service Tariff Heading 9805.7000 of Second Schedule to the Sindh Sales Tax on Services Act, 2011 (hereinafter referred to as the Act). It was also stated that appellant being a withholding agent under rule 2 (11) read with clause (e), (f) of sub-rule 2 of rule 1 of the Sindh Sales Tax Special Procedure (Withholding) Rules, 2014 (previously Sindh Sales Tax Special Procedure (Withholding) Rules,



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2011 applied up to 30.06.2014) is liable to deduct and deposit with SRB the sales tax in prescribed manner.

02.It was alleged in the order ~~in~~ original that the appellant for the tax periods October, 2011 to October, 2016 withheld Sindh Sales Tax amount of Rs.79,146,078/= and failed to deposit withheld sales tax amount of Rs.24,920,397/= with SRB. It was also alleged that the appellant failed to submit the prescribed withholding statement.

03.A show-cause notice dated 29.11.2016 was issued to the appellant to explain as to why the Sindh Sales tax of Rs.24,920,397/= should not be assessed and recovered along with default surcharge and penalties. The appellant was also show-caused for non-submissions of monthly sales tax returns for withholding agent (SSTW-03). The appellant neither appeared before the Assessing Officer nor file any reply.

04.The Assessing Officer passed the assessment order in the sum of Rs.24,920,397/= along with default surcharge. The Assessing Officer also imposed penalties under the various provisions of section 43 of the Act.

05.The Appellant challenged the Order-in-Original by way of filing appeal before the Commissioner (Appeals) who upheld the OIO to the extent of principal amount of tax and default surcharge and waived the penalties imposed by the Assessing Officer.

06.During pendency of appeal before us an order dated 28.03.2018 was passed for preparation of Reconciliation Statement. The learned AC filed Reconciliation Report Dated 26.04.2018. As per the Reconciliation the balance amount of Tax in respect of SCN-1 is Rs.3,026,825/= and tax in respect of SCN 2 (October, 2011 to October, 2016) is Rs.24,920,397/=(including the amount of SCN-1) and after the adjustment of amount of Rs.11,172,737/= recovered through attachment of bank account the balance amount comes to Rs.13,747,660/=.



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07. That during the pendency of this appeal the appellant deposited a sum of Rs.18,613,408/= on various dates under Amnesty Scheme dated 18.05.2018.

08. The AC was again directed vide order dated 17.07.2018 to file reconciliation report in respect of the amount deposited by the appellant. The AC filed Reconciliation Report Dated 20.07.2018 which is reproduced as under.

Total amount deposited up to 05.06.2018	Rs. 18,613,408/=
Less Tax as per reconciliation report dated 26.04.2018	Rs. 13,747,660/=
Balance of amount deposited by appellant	Rs. 4,865,748/=
Less Default Surcharge as per Reconciliation Dated 20.07.2018	Rs. 2,039,872/=
Balance to be adjusted in future liability (November, 2016 to onward period after the SCN)	Rs. 2,825,876/=

We have heard the learned representative of the parties and perused the record made available before us.

09. Mr. Rizwan Attara, representative of the appellant is satisfied with the above reconciliation report filed by learned AC today.

10. The reconciliation report shows an excess amount of Rs.2,825,876/=. Ms. Sania Anwar, AC submitted that the excess amount is in respect of future liability (after the show cause period) and after adjustment of this amount the appellant is liable to pay/deposit further amount of withholding tax.

11. From the Reconciliation Report Dated 26.04.2018 and 20.07.2018 it appears that the appellant has deposited the amount assessed by the Assessing Officer vide OIO No. 24/2017 dated 02.02.2017 (Including the amount of SCN-1 Rs. 3,026,825/=) and no amount of tax for the show-


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cause periods (October, 2011 to October, 2016) is outstanding against the appellant. The appellant had also deposited 5% of the tax amount on account of default surcharge as per Amnesty Dated 18.05.2018.

12. The excess amount of Rs.2,825,876/= may be adjusted in the future liability of withholding if any of the appellant from the periods November, 2016 and onwards (period after the show-cause notice) and after adjustment if any further amount is due and payable by the appellant the same can be recovered as per law.

13. The appeal is disposed of in above terms. Copy of the order may be supplied to the authorized representative of the parties.

  
(Agha Kafeel Barik)  
Member Technical

  
(Justice (R) Nadeem Azhar Siddiqi)  
Chairman

Karachi. Dated. 20. 07. 2018

Copies Supplied to:

- 1) The Appellant through Authorized Representative
- 2) The Assistant Commissioner, SRB for compliance  
Copy for Information
- 3) The Commissioner Appeals, SRB
- ✓ 4) Guard File
- 5) Office File

Certified to be True Copy

  
**REGISTRAR**  
**APPELLATE TRIBUNAL**  
**SINDH REVENUE BOARD**