

BEFORE THE APPELLATE TRIBUNAL SINDH REVENUE BOARD

Appeal no: 35/2018

Centegy Technologies (Pvt.) Ltd..... Appellant

VERSUS

The Assistant Commissioner (Unit-06)..... Respondent-1

And Commissioner (Appeals) SRB..... Respondent-2

Appeal no: 36/2018

Centegy Retail Solutions (Pvt.) Ltd..... Appellant

VERSUS

The Assistant Commissioner (Unit-06)..... Respondent-1

And Commissioner (Appeals) SRB..... Respondent-2

Mr. Shibli Islam Rehan FCA..... For Appellant

Ms. Ambreen Fatima A.C S.R.B..... For Respondent

Date of hearing: 02-10-2018

Date of order: 14-11-2018

ORDER

Mr. Muhammad Ashfaq Balouch:

By this joint order I have proposed to dispose off above titled two appeals.

Appeal no: 35/2018

(2). Present appeal has been filed against the order of Learned Commissioner (Appeals), bearing appeal No 93/2016 passed in Order In Appeal No. 49/2018 dated 29th-March-2018 (hereinafter referred to as OIA), whereby Order in Original bearing No. 119/2016 dated 25-02-2016 (hereinafter referred to as OIO) passed by Assistant Commissioner (the then unit No.06) was confirmed.



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(3). Brief facts as disclosed in the OIA are as under:-

“The appellant is registered with the SRB for providing services of “software or IT based system, development consultant”. The Respondent perused the audited financial accounts of the Appellant for the periods from July 2013 to June, 2014 and found a short payment of Rs: 404,768/- as compared to the monthly sales tax returns. The appellant responded to the show cause notice vide letter No. BA-247A-15 dated 16-11-2015. The contention of the Appellant was that invoices of value of an amount of Rs.2,529,800/- pertaining to the year 2013-14 were cancelled in the year 2013-14, were kept on hold due to some system related issues of the customer, and the same were reissued later in the year 2014-15. And that the revenue pertaining to those invoices was booked in that year 2013-14 but the tax amount was adjusted in the books of accounts in that year and was not paid. And that later, upon reissuance of invoices in the subsequent year the tax was paid and the same was recorded in the books of accounts and the invoices were also declared in the subsequent year. And that since the invoices were reissued in the subsequent year, therefore, the rate of tax differed. And further that the value of services in some of the invoices also differed due to addition of further services. And that during this course the financial year had changed thus the reissued invoices were given number afresh. Further submitted that since these invoices were kept on hold despite of rendered services therefore the debit notes were not issued by the recipient. And that some of the invoices were reissued in the name of SHMA instead of M/s Soneri Bank, for the reason that originally the service orders were placed before SHMA (sister concern) and the services were provided by the appellant. And that for this reason and for avoiding the violation of matching principal the costs could not be reversed for the revenue already booked and accounted for. And that the value of these services was neither shown nor was booked in the subsequent year, but only the tax amount.”

(4). Present appellant felt aggrieved by the OIO filed appeal before the Learned Commissioner (Appeals). The Learned Commissioner (Appeals) SRB Karachi was pleased to dismiss the appeal. Thereafter, present appeal was filed before this Tribunal.



Appeal no: 35/2018

(5). Centegy Retail Solutions (Pvt.) Ltd. v/s The Assistant Commissioner (Unit-06) and Commissioner (Appeals) SRB, this appeal has been filed against the order of Learned Commissioner (Appeals), bearing appeal No 92/2016 passed in Order In Appeal No. 50/2018 dated 29th-March-2018 (hereinafter referred to as OIA), whereby Order in Original bearing No. 118/2016 dated 25th-02-2016 (hereinafter referred to as OIO) passed by Assistant Commissioner (the then unit No.06) was confirmed.

(6). Brief facts as disclosed in the OIA are as under:-

“The appellant is registered with the SRB for providing services of “software or IT based system, development consultant”. The Respondent perused the audited financial accounts of the Appellant for the periods from July 2013 to June, 2014 and found a short payment of Rs: 1857520/- as compared to the monthly sales tax returns. The appellant responded to the show cause notice vide letter No. BA-259B-16 dated 25-01-2016. The contention of the Appellant was that invoices of value equal to Rs.7610000/- pertaining to the year 2013-14, involving sales tax of Rs. 1217600/- were cancelled in the year 2013-14, were kept on hold due to some system related issues of the customer, and the same were reissued later in the year 2014-15. And that the revenue pertaining to those invoices was booked in that year 2013-14 but the tax amount was adjusted in the books of accounts in that year and was not paid. And that later, upon reissuance of invoices in the subsequent year the tax was paid and the same was recorded in the books of accounts and the invoices were also declared in the subsequent years. And that since the invoices were reissued in the subsequent year, therefore, the rate of tax differed. And further that the value of services in some of the invoices also differed due to addition of further services. And that during this course the financial year had changed thus the reissued invoices were given number afresh. Further submitted that since these invoices were kept on hold despite of rendered services, therefore, the debit notes were not issued by the recipients. And that for this reason and for avoiding the violation of matching principal the costs could not be reversed for the revenue already booked and accounted for. And that the value of these services was neither shown nor was booked in the subsequent year, but only the tax amount.”



(7). Department filed para-wise comments where in supported the order of Learned Commissioner (Appeals).

(8). As in both appeal supra almost all the issues were similar accept one issue about the issuance of invoices in name of sister concern. Therefore, the Learned Counsel of appellant and departmental representatives have advance following common arguments on both appeals supra.

(9). Mr. Shibli Islam Rehan FCA for the appellant has argued that the main issue which requires consideration is about the non-reporting of certain invoices for sales tax purpose, whereas these were included gross revenue reported for accounting purpose. These invoices were though issued but were cancelled. At subsequent stage same were reported in a system and the respective amount of these invoices remain included in the revenue as service. The reason for cancellation of invoices was that customers have not accepted these invoices but due to end of closing, these could not be immediately reversed at the end of June 2014. Thus for accounting purpose these remain included in the subject year's revenue but were not included in the sales tax return due to the non-acceptably and pending resolution of issues raise by the customers. It was further submitted that after the resolution of issues the customers required reissuance of new invoices due to commitment of new financial year therefore, these cancelled invoices were reissued. So for the issue of credit and debits note the contention of Learned Counsel was that as the appellant had to treat the invoices issued on the request of its customers, required documentation was completed at the end of appellant through generation and recording of credits notes. The customers company did not issued and provide debit notes as they neither accepted the invoices nor were these recorded by them in the system. The debit note, which is accounting document generated for correcting and earlier credit transition cannot be issued, unless and earlier accounting transaction is recorded in the system. Mr. Shibli Islam Noman FCA has stated that department has powers to call the reports from services recipients, whether they have booked these invoices in their books. It was also argued that the confirmation of majority parties were submitted.

(10). About Appeal No 36/2018 The Learned Counsel for appellant has argued that so far amount of value Rs. 3610, 333/- is concerned the SHAMA and M/s



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Centegy Technologies Pvt. (Ltd) are the three associated companies, they work together and that the invoices which were issued to M/s Mobis SMS services printed and in advertently issued on the letter head of M/s Centegy Technologies Pvt (Ltd) and were declared by the M/s Centegy Technologies Pvt Ltd and tax there on was also paid by them.

(11). Departmental representative Ms. Ambreen Fatima, Assistant Commissioner SRB has stated that after the verification of record it was found that the amount of Rs 404768/- was not declared by the appellant. The plea of appellant was that said amount declared in financial statement for the year 2013 and 2014 but it was declared in the sales tax returns in the year 2014 and 2015 for the reason that some invoices were issued and subsequently cancelled on the request of customers. This was a wrong statement on part of appellant because as per accounting standard and ruled 23 of SST Rules 2011 and International Accounting Standards (IAS) the matching principle of IAS is violated by the appellant because revenue and relevant expenses are recognized in the same period. The revenue is recognized when there is a reasonable certainty that they will be realized, further rule 23 of SST Rules 2011 says that after cancellation of invoices the service recipient can issued a debit note to service provider mentioning there in the amount which was cancelled but the appellant has not filed the debit note which was issued by the recipient therefore, the said claim of appellant in light of IAS is not justified. It was also submitted that appellant side had not submitted ledgers and other documents for perusal of department.

(12). With regard to amount of Rs. 3610000/- the contention of Learned AC was that invoices produce by appellant were issued to M/s Mobis SMS Solution either by SHAMA or by M/s Centegy technologies Pvt Ltd but not by the appellant and short payment on part of the appellant cannot be paid good on the basis of any invoice issued and declared by other parties.

(13). I have considered the arguments of both the parties and perused the record.

(14). The crux of the arguments of appellant side is the cancellation of invoices and reissuance of new invoices against the same are the factual events,



which may be verified by getting confirmation from the respective customers specifying detail of invoices treated as cancelled. The reissued invoices which were accepted by the customers. Subsequently, same were reported in their sales tax returns. The department has powers to cross check the claim from the customer's portals containing STRs declaration, further it may be checked by issuing verification letter to the customers.

(15). So far non-issuance of "Debit Note" is concerned the appellant's submission is that since the invoices were issued and documentation was complete at the end of appellant. But company's customers did not issue and provided Debit notes. Because they have neither accepted the invoices nor were recorded in their system. Therefore, on issuance of new invoices appellant issued credit notes for the purpose of required accounting adjustment.

(16). The further contention of appellant side that any procedural deficiency relating to non-issuing of certain documents viz "Debit note" which was beyond the appellant's central, should not become the basis for rejecting all other valid and documented evidence, these contentions of appellant side have sufficient force.

(17). With regard to issuance of invoices on the letter head of sister concern invoices of the appellant company got printed erroneously and inadvertently on the letter heads of Centegy Technologies (Pvt) Ltd and Siddat Hyder Morshed Associated (Pvt) Ltd, both of which are associated companies. This mistake was identified after reporting in STRs of Centegy technology (Pvt) Ltd and depositing the sales tax. As soon this mistake was identified same was corrected in financial statements. It was unintentional mistake. This argument has also weight for the purpose of further enquiry.

(18). From the above submission of both the sides it appears that departmental claim is that required documents were not submitted for the perusal, while the contention of appellant is that said documents were submitted before department and they are ready again to procedure the same. It is also worthwhile to mention here that departmental officers have not made any effort to call confirmation from the appellant's customers regarding cancellation of invoices of



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appellant and reissuance of said invoices. So also about the issuance of invoices on the letterhead of sister concern.

(19). In view of above circumstances, facts and arguments, I am of the opinion that necessary details and documents for verification of data, reports from the service recipient are still required which is not possible at this appellate stage. Hence, the both appeals supra are hereby allowed, orders of officers below are set-aside. Hence, both matters supra are remanded back to the Concerned A.C SRB for denovo assessment. Keeping in view above observations. Further, with direction to consider the details, explanations advanced by the appellant. So also call confirmation letters from the customers of appellant. Also verify the claim of appellant portal containing the appellants STRs.

(20). The appeal is disposed off in above terms.



(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

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