

(Award file)

**BEFORE THE APPELLATE TRIBUNAL, SINDH REVENUE BOARD AT
KARACHI**

DB-I

APPEAL NO. AT-10/2022

**M/s Contact Plus (Pvt.) Ltd Appellant
(SNTN: 2975222-1)**

D-47, Miran Muhammad Shah Road,
Muhammad Ali Housing Society,
Karachi

Versus

Assistant Commissioner, (Unit-20) Respondent
SRB, Karachi, 02nd Floor Shaheen Complex,
M.R. Kayani Road, Karachi

Date of hearing 24.02.2022

Date of Order 24.02.2022

Mr. S.M Rehan, (FCA) along-with Mr. Ahsan Iqbal, (ITP) for appellant
Mr. Shoaib Iqbal Rajkoti, AC-SRB and Ms. Umi Rabbab, AC-DR for SRB

ORDER

Imtiaz Ahmed Barakzai: An appeal was filed against rejection of stay order dated 14.02.2022 issued by the Commissioner (Appeals) whereby he cancelled the stay application of the appellant.

02. Mr. S.M. Rehan, FCA for the appellant submitted as under:

- i) The appellant is a bonafide taxpayer and is paying Sindh Sales Tax on all services which are subject to Sindh Sales Tax.
Appeal against the order in original is lying pending before the Commissioner Appeals.
Previously, on the same basis, an order was passed pertaining to other tax periods which was completely canceled by the commissioner appeals.
The facts of the order in original against which appeal is lying pending before the Commissioner (Appeals) are identical with that previous order.



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- iv) That department has initiated recovery proceedings and coercive actions have been taken.
- v) That the recovery of such huge disputed demand has adversely affected the operations and cash flow of the organization.

03. The stay application was rejected by the Commissioner (Appeals) on 14.02.2022 who had passed a hand written order as under:-

"Hearing is held on 14.02.2022 @ 04:55 p.m. The AC has not reached. The AR is requesting for adjournment. AC has issued PWCs. The AR is advised to submit rebuttal. The case apparently related to 80% payment to the SP by the SRs. The evidence to its effect is available. In such circumstances, I do not find any justification for stay. Thus stay application is decided in negative."

It is prayed by the appellant that since the order was not sustainable thus stay may be granted.

04. Mr. Shoaib Iqbal Rajkoti, AC vehemently opposed the grant of stay and submitted that the tax was received by the appellant from service recipient but the same was not deposited with SRB. He submitted that no full order of rejection of stay has yet been passed since the stay has been vacated by hand written order as reproduced above which was already available on file. The AC further submitted that the Commissioner (Appeals) in the identical case pertaining to other periods had granted stay and decided appeal in favor of taxpayer but facts during those periods were not identical.

05. The points raised by the appellant requires consideration and the stay application is disposed off as under:-

Stay Application

- i) Mr. S.M. Rehan FCA submitted that the department has attached the bank accounts of the appellant maintained at Muslim Commercial Bank Ltd., Faisal Bank Limited and JS Bank Limited. He submitted that in case the stay was not granted and attachment was not withdrawn the appellant would not be able to do its day to day business and will suffer irreparable loss on account of its reputation. In the stay application the appellant has prayed for grant of stay till the decision of appeal by the Commissioner (Appeals).



M. S. Rehan

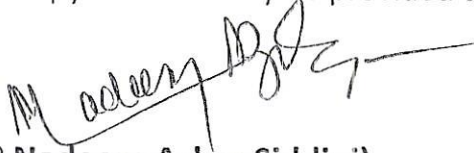
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- ii) In view of the above facts it would be appropriate to provide some protection of the appellant against coercive recovery of dues during the pendency of appeal before the Commissioner (Appeals). Therefore the department is restrained from taking any further coercive measures for recovery of tax dues till five days after the decision of appeal by the Commissioner (Appeals).

06. We deem it appropriate to point out before parting with the stay application that the manner in which the Commissioner (Appeals) issued copy of order of refusing stay was not proper. The Commissioner (Appeals) and all officers of SRB should issue proper readable and typed certified copies of order with title of the case (showing the name of parties and number of appeal in which such order was issued). Issuing unreadable handwritten order is not proper practice for an institution like SRB. We hope that officers of SRB will be careful in future. The copy of this order may be sent to learned Chairman, SRB for ensuring compliance.

07. The appeal is disposed of as in para 5(ii) supra with the directions to Commissioner (Appeals) to dispose off the main appeal expeditiously.

08. The copy of order may be provided to the concerned parties.


(Justice[®] Nadeem Azhar Siddiqi)
CHAIRMAN


(Imtiaz Ahmed Barakzai)
TECHNICAL MEMBER

Karachi

Dated: 24.02.2022

Certified to be True Copy

Copy Supplied for compliance:

- 1) The Appellant through Authorized Representative,
- 2) The Assistant Commissioner, (Unit-03), SRB, for compliance



Copy for information to:-

- 3) The Chairman, SRB, Karachi.
- 4) The Commissioner (Appeals), SRB, Karachi.
- 5) Office Copy.
- 6) Guard File.

Order issued on 25-02-2022


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APPELLATE TRIBUNAL
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Order Dispatched on 25-02-2022


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