

BEFORE THE APPELLATE TRIBUNAL, SINDH REVENUE BOARD, AT
KARACHI
SINGLE BENCH-I

APPEAL NO. AT-146/2022

M/s Reliance Commodities (Pvt.) Ltd.
(SNTN: S1334812-4),
Plot No. 21, Oil installation Area, Kemari,
Karachi.....Appellant

Versus

The Assistant Commissioner (Unit-08),
Sindh Revenue Board (SRB),
2nd Floor, Shaheen Complex,
M.R. Kayani Road Karachi.....Respondent

Date of filing of Appeal: 11.08.2022
Date of hearing: 17.11.2022
Date of Order: 14.12.2022

Mr. Shahid Hussain, Advocate and Mr. Shoaib Noor, advocate for appellant.

Mr. Imtiaz Ali, AC-(Unit-08), SRB Karachi for respondent.

ORDER

Justice[®] Nadeem Azhar Siddiqi: This appeal has been filed by the appellant challenging the Order-in-Appeal (hereinafter referred to as the OIA) No. 111/2022 dated 07.07.2022 passed by the Commissioner (Appeals) in Appeal No. 198/2022 filed by the appellant against the Order-in-Original (hereinafter referred to as the OIO) No. 1159/2022 dated 24.05.2022 passed by Mr. Imtiaz Ali, Assistant Commissioner, (Unit-08) SRB Karachi.

02. The facts as stated in the OIO were that the appellant was registered with Sindh Revenue Board (SRB) under the service category of "Warehouses or depots for storage or cold storages" Tariff Heading 9847.0000" of the 2nd Schedule to the Sindh Sales Tax on Services Act,

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2011 (hereinafter referred to as the Act). The said service category was chargeable to Sindh Sales Tax (SST) since 1st July, 2019.

03. It was alleged in the OIO that on examination/scrutiny of financial statement of the appellant for the year ended June, 30th 2020, it was transpired that the appellant had earned revenue amounting to Rs.26,503,873/- under the head of Storage Rental Income during the tax periods from July-2019 to June-2020 which involved payment of SST of Rs.3,445,503/- but the appellant failed to discharge its obligation under the Act. The details are given in table below for ready reference:

Sr. No.	Description	Values
1	Storage Rental Income (2020)	26,503,873
2	Applicable Rate of Tax	13%
3	Sindh Sales Tax @ 13% rate	3,445,503
4	Less: SST paid in SRB	NILL
5	Short Payment Payable	3,445,503

04. The appellant was served with a Show-Cause Notice (SCN) dated 04.03.2022 to explain as to why the SST amounting to Rs.3,445,503/- should not be assessed under section 23(1) of the Act and be recovered under section 47(1A) of the Act along with default surcharge (to be calculated at the time of payment) under section 44 of the Act and penalties prescribed under Serial No.2, 3 and 12 of the Table under section 43 of the Act.

05. The appellant filed written reply to the SCN. The main plea of the appellant was that SST could not be recovered for the period before registration and relied upon the order of the Appellate Tribunal, Inland Revenue in the case of The C.I.R. (Legal), R.T.O. Faisalabad versus Seth Muhammad Tufail & Sons, 2018 PTD 536 (a case relating to Sales Tax Act, 1990).

06. The Assessing Officer (AO) after hearing passed OIO determining the SST at Rs.3,445,503/- along-with default surcharge (to be calculated at the time of payment) under section 44 of the Act and also imposed penalty of Rs.172,275/- (5% of principal tax Rs.3,445,503/-). A further penalty of Rs.10,000/- was also imposed under Serial No. 2 of the Table

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under section 43 of the Act for not filing the monthly Sales Tax Returns (SST Returns) The AO also imposed penalty of Rs.172,275/- under Serial No. 12 of the Table under section 43 of the Act for violating the rules made under the Sindh Sales Tax on Services Act, 2011.

07. The appellant challenged the said OIO by filing appeal under section 57 (1) of the Act before Commissioner (Appeals), SRB (CA-SRB) who had dismissed the appeal. The operating part is read as under:-

11. *For the given reasons the OIO is upheld in principle to the extent of the principal amount and the default surcharge. However, as far as the penalty is concerned, in view of the above noted position it is surfaced that the matter of "the period prior to registration", involves an interpretation, hence the case of the Appellant is required to be considered accordingly. In the given circumstances, the Appellant shall only be required to pay the penalties if it fails to pay the principal amount and the default surcharge within a period of one month. In view whereof, the Appellant is directed in its own interest to file the returns accordingly and to avail the benefit, conditionally granted herein.*

08. The learned representative of the appellant submitted as under:-

i. The appellant was voluntarily registered with SRB on 05.05.2021.

ii. The SST was erroneously charged for tax periods July-2019 to June-2010, which was prior to the date of registration.

iii. The SST was charged only on the basis of revenue shown in the audited accounts without linking the said revenue with the provision of service.

iv. The SST was charged for the entire financial year instead of tax period wise (month wise) as the tax period provided under sub-section (95) of section 2 of the Act is one month.

v. The AO and CA-SRB imposed default surcharge and penalties without establishing willfulness, malafide and mensrea on the part of the appellant.

09. The learned Assistant Commissioner-SRB submitted as under:-

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i. The appellant being service provider before providing taxable service was required to get registration from SRB.

ii. The SST was rightly charged from the appellant before the date of registration as the appellant being person liable to be registered was covered under sub-section (71) Of section 2 of the Act.

iii. The AO on the basis of previous order of the Lahore High Court and Peshawar High Court has rightly charged SST before the date of registration.

iv. The SST was charged on the basis of revenue entries available in the audited accounts for the reason that the appellant has not provided relevant documents.

v. The default surcharge was rightly charged as the appellant by not paying the SST caused loss to public exchequer.

vi. The willfulness, malafide and mensrea were apparent on the face of the record.

10. I have heard the learned representative of the parties and perused the record made available before me.

11. The appellant was registered with SRB on 05.05.2021 under Tariff Heading 9847.000 (ware houses or depots for storage or cold storages) brought to tax net effective from 01.07.2019 chargeable to SST @ 13% for the periods from July-2019 to June-2020.

12. The plea of the appellant since inception was that no SST could be charged from it before the date of registration. The AC submitted that by virtue of sub-section (71) Of section 2 of the Act the appellant being person liable to be registered come within the definition of registered person and was liable to pay SST even before registration.

13. From hearing the learned representatives of the parties it appears that the controversy or the points involved in this appeal are as under:-

- i. Whether the department could charge SST from the appellant prior to date of its registration with SRB?
- ii. Whether the appellant was not liable to pay SST is so then who was liable to pay the same?

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14. The questions were considered by the then CA-SRB in various appeals and it was held that SST cannot be charged from a service provider prior to its date of registration with SRB, few of such 'OIA's are mentioned for ready reference as under:-

- a) Appeal No.73/2018, OIA No.97/2020 M/s Sinopec International vs. Assistant Commissioner (Unit-03), SRB dated 03.11.2020.
- b) Appeal No.303/2019, OIA No.95/2019, dated 28.10.2020, M/s Tracking World vs. Assistant Commissioner (Unit-01), SRB.
- c) Appeal No. 16 & 17/2017, OIA No. 2A/2021 dated 17.08.2021, M/s CNPC Chaunqing Drilling versus SRB.

15. The above view of then Commissioner (Appeals), SRB was upheld by DB of this Tribunal in its various pronouncements. Few of such decisions are mentioned for ready reference as under:-

- a) Appeal No. AT-21/2021, M/s Cyber Tech versus AC-Unit-04, SRB, Order dated 30.09.2021.
- b) Appeal No. AT -18/2021 WEB DNA V AC-Unit-11-SRB, Order dated 16.11.2021.
- c) Appeal No. AT-30/2021, M/s Tracking and Surveillance (Pvt) Ltd. versus AC-Unit-01-SRB, Order dated 31.12.2021.

16. The AO as well CA-SRB passed the OIO and OIA in ignorance of the above mentioned orders of the then CA-SRB. Though the earlier orders of then then CA-SRB are not strictly binding on the present CA-SRB but the earlier orders could not be easily ignored with an intention to charge SST from non-registered service provider. The department should follow the rule of consistency which is a good practice display transparency. As far as the orders of the Tribunal are concerned the same are final in view of sub-section (8) of section 62 of the Act and will remain in field unless setaside by the Honorable High Court under section 63 of the Act and the department should follow the same.

17. The appellant relied upon the order of the Appellate Tribunal, Inland Revenue in the case of The C.I.R. (Legal), R.T.O. Faisalabad versus Seth Muhammad Tufail & Sons, 2018 PTD 536 (a case relating to Sales Tax Act, 1990). The operative part is reproduced as under:-



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8. A combined study of sections 2(25) and 23 of the Sales Tax Act, 1990 and Rule 6 of the Sales Tax Rules, 2006 makes more clear that where a person is required to be registered under the Sales Tax Act, 1990 as envisaged under section 14 of the Act is under obligation to apply for registration and in case of failure, departmental authorities shall issue a notice to such person and after allowing him an opportunity of being heard, shall pass an order whether or not such person is liable to be registered compulsorily or not. Therefore, where a person is liable to be registered, departmental authorities are required to register him compulsorily and then charge sales tax from him under section 3(1) (a) of the Sales Tax Act, 1990 which stipulates that there shall be charged, levied and paid a tax known as sales tax at the rate of seventeen percent of the value of taxable supplies made by a registered person in the course or furtherance of any taxable activity carried on by him. **The outcome of the discussion is that liability of sales tax created against the respondent/taxpayer for the tax periods prior to sales tax registration is illegal and unlawful.** (Emphasis supplied)

9. In view of above, we reached at the irresistible conclusion that judicious appellate orders of the learned CIR (A), Faisalabad, impugned before us, do not suffer from any gross irregularity, illegality and infirmity which do not warrant any interference by this Tribunal, are hereby confirmed and upheld.

18. The AC-SRB relied upon the following reported cases upon which the CA-SRB based on his findings. The following judgments are relating to the Sales Tax Act, 1990.

a) M/S Khan & Company versus Deputy Commissioner, IR (Audit-IX), Peshawar, 205 PTD 796.

b) No doubt, the obligation imposed to pay sales tax under the charging section is upon a "registered person, who makes supplies during the course of his business. However, when we turn to the definition of the term "registered person, defined in subsection (25) of Section 2 of the Act, it reads that: (25) registered person means a person who is registered or is liable to be registered under this Act: Provided that a person liable to be registered but not registered under this Act shall not be entitled to any benefit available to a registered person under any of the provisions of this Act or the rules made thereunder. (Emphasis provided)

9. The plain reading of the aforementioned definition, expressly brings within the purview of the term "registered person, not only a person,

who is registered, but also one, who is liable to be registered under the Act. As far as the requirement of registration of a person is concerned, it is noted that Section 14, regulates the issue of registration of a person with the Revenue for the purposes of sales tax under the Act, and it reads:-

Section 14. Registration. Under this Act, registration will be required for such person and are regulated in such manner and subject to Rule, as the Board may, by notification in the official Gazette, prescribed. (Emphasis provided).

b) 2019 PTD 1493 Com. IR versus S.K. Steel a judgment of DB-Lahore High Court relating with Sales Tax Act, 1990. At page 1505 it was held as under:

17. In view of the above, our answer to the proposed questions is that the combined reading of the provisions of the Act of 1990 and the Rules framed thereunder manifestly disclose the intention of the law maker that, where a person is liable to be registered, the applicant-department is first required to register that person compulsorily or otherwise in accordance with law, and then charge sales tax from it under Section 3 of the Act of 1990, and may proceed against that person regarding prior to registration contravention of the provisions of the Act of 1990, if any. In that eventuality, taxpayer shall be entitled to raise all factual and legal objections against the proceedings so initiated or to be initiated by the applicant-department which are not dealt with in this judgment.

19. The CA-SRB while relying upon the aforesaid two judgments ignored and failed to consider sub-rule (4) of rule 3 of the Sindh Sales Tax Special Procedure (Withholding Rules), 2014 (hereinafter referred to as the Withholding Rules) which are special rules framed under section 13 of the Act which starts with a non-obstante clause and has preference over the other provisions of the Act and Rules framed thereunder. Sub-rule (4) of rule 3 of the Withholding Rules provided as under:-

“A withholding agent having Free Tax Number (FTN) or National Tax Number (NTN) or Sindh sales tax registration number (STN) and falling under sub-rule (2) of rule 1, shall, on receipt of taxable services from unregistered persons, deduct the amount of sales tax, at the tax rate

applicable to the taxable services provided or rendered to him, from the amount invoiced or billed or demanded or charged by such unregistered service provider (emphasis supplied) and unless otherwise specified in the contract between the service recipient and the service provider, the amount of sales tax for the purpose of this rule, shall be worked out on the basis of gross value of taxable services {under the tax fraction formula}".

20. The above sub-rule (3) of rule 4 of the Withholding rules was framed in exercise of power vested in the SRB-Board under sub-section (2) of section 13 of the Act. The perusal of sub-section (2) of section 13 of the Act revealed that the SRB Board may, by notification require any person or class of person, whether registered or not, to withhold full or part of the tax charged. This provision also starts by the words "Notwithstanding anything contained in this Act", and is a non-obstante clause having over riding effect on other provisions. Sub-section (1) of section 9 of the Act fixed the responsibility of payment of tax upon the service provider which responsibility was shifted by the SRB Board upon service recipient receiving service from non-registered person.

21. In our earlier decision dated 16.11.2021 in the Case of WEB DNA versus AC-Unit-11-SRB, Appeal NO. AT -18/2021 a DB of this Tribunal held as under:-

The Contention of the AC was that the person liable to be registered was deemed to be a registered and fell within the definition of registered person provided under sub-section (71) of section 2 of the Act and was liable to pay SST even before its formal registration with SRB. This contention needs to be legally examined.

ii. *The relevant provisions dealing with the assessment and registration are sub-section (1) of section 23, and sub-section (1) of section 24 of the Act. Moreover sub-section (71) of Section 2 of the Act provides that registered person means a person who is registered or is liable to be registered under this Act. Sub-section (1) of section 23 of the Act deal with the assessment of tax and contemplates that in case the registered person has not paid tax due on taxable services provided by him or has made short payment, the officer of SRB shall make an assessment order. Sub-section (1) of section 24 of the Act provided that*



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registration will be required for all persons who are residents; and provide or render any of the services listed in the Second Schedule from their registered office or place of business in Sindh. If the above contention of the AC that the person liable to be registered was deemed to be registered person is accepted sub-section (1) of section 24 of the Act relating to registration and sub-section (1) of section 23 of the Act relating to assessment of registered person would become redundant which is legally not permissible. It is a cardinal principle of statutory interpretation that redundancy or superfluity must not be attributed to the Legislature, and that no part or word in a statute could be treated as superfluous.

iii. There is an apparent conflict between Sub-section (71) of section 2 of the Act, sub-section (1) of section 23 and sub-section (1) of section 24 of the Act. Sub-section (71) of section 2 is a general provision which is declaratory in nature, whereas sub-section (1) of section 23 of the Act particularly deals with assessment of tax when such tax is not paid by registered person. Moreover sub-section (1) of section 24 of the Act deals particularly with registration of all persons who are residents and provide services listed in the Second Schedule to the Act from their registered office or place of business in Sindh. The provisions of section 23 and 24 of the Act are specific provisions dealing with specific purposes i.e. assessment of registered persons and registration of the persons providing taxable services within Sindh and will prevail over sub-section (71) of section 2 of the Act. Furthermore in case of apparent conflict between the two provisions of the same Act the subsequent provisions i.e. section 23 and 24 of the Act will prevail. In the reported case of *Mst. Sakina Bibi versus Crescent Textile*, PLD 1984 SC 241 it was held as under:-

“...Moreover, section 81 being a later provision would obviously control section 73 in case there is any conflict regarding the scope of both the provisions”.

This view further gains support from the decision of Lahore High Court in the case of *Commissioner Inland Revenue, Gujranwala vs. S.K. Steel Casting Gujranwala*, 2019 PTD 1493 (relied upon by the AC-SRB) wherein it was held as under:-

“.....16. Needless to say that under the law, a definition clause in a statute is of a declaratory nature. Though normally the definitions provided for in the definition clause are to be read into the provisions of the Act while interpreting the defined terms/words, but if the



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contents of the provisions of the Act indicate otherwise, the definition clause cannot override a main provision of the statute. Definition clause is foundational when construing provisions of law.....”

iv. The status of definition clause was considered by the Honorable Supreme Court of Pakistan in the case of Chairman, Federal Board of Revenue versus M/s Al-Technique Corporation of Pakistan Limited, PLD 2017 SC 99 and it was held as under:-

“It is settled that a definition clause is foundational when construing provisions of law. The definition given in the Act should be so construed as not to be repugnant to the context and would not defeat or enable the defeating of the purpose of the Act. It must be read in its context and the background of the scheme of the statute and the remedy intended by it”.

It is therefore evident that the definition clause cannot override a main provision of the statute.

v. Section 3 of the Act deals with taxable service. Sub-section (1) of section 3 of the Act provides that a taxable service is a service listed in the Second Schedule of the Act, which is provided by a registered person from its registered office or place of business in Sindh. It is clear from mere reading of this section that it applies to the registered person and not to person liable to be registered and is not applicable to the appellant before its registration. Sub-section (2) of section 3 of the Act deals with the service that is not provided by a registered person and such service shall be treated as a taxable service if the same is listed in the second schedule to the Act and is provided to a resident person by a non-resident person. In the explanation appended below it was provided that this sub-section dealt with the services provided by non-resident persons to a resident person.

vi. It is thus apparent from the above provisions of the Act that the services recognized by law are those services which are provided by registered persons from its registered office or place of business in Sindh and such services are provided by a non-resident person to a resident person. However this provision does not recognize the service provided by a non-registered person.

vii. Section 9 of the Act deals with the person liable to pay tax. Sub-section (1) of section 9 of the Act provides that the liability to pay the tax is upon the registered person providing the services. Since the words used are “registered person” this sub-section was not applicable to the appellant prior to its registration with SRB. Sub-section (2) of section 9

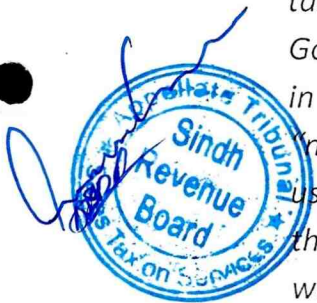


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of the Act provides that where service is taxable by virtue of sub-section (2) of section 3 of the Act the liability to pay the tax shall be on the person receiving the services and sub-section (3) of section 9 of the Act commencing with the word "Notwithstanding" provides for the power of the Government to notify the services or class of services in respect of which the liability to pay tax shall be on the person providing the taxable services, or the person receiving the taxable services or any other person.

viii. The sub-section (1) of section 13 of the Act commences with the words "notwithstanding anything contained in this Act" and provided that the Board may, by a notification in the official Gazette, prescribe special procedure for the payment of tax, valuation of taxable services, registration, record keeping, invoicing, or billing requirements, returns and other related matters in respect of any service or class of services and subject to such limitations and conditions as may be specified in the notification. Sub-section (2) of section 13 of the Act also commences with the words "notwithstanding anything contained in this Act" and provided that the Board may, by a notification in the official Gazette, require any person or class of persons, whether registered or not, to withhold full or part of the tax charged from or invoiced to such person or class of persons on the provision of any taxable service or class of taxable service and to deposit the tax, so withheld, with the Government, within such time and in such manner as may be specified in the notification. The provisions commencing with the word "notwithstanding" are treated as non-obstante clause and are usually used to indicate that such provision will prevail upon other provisions of the Act. By inserting sub-section (2) of section 13 of the Act the Board was authorized to shift the burden of payment of tax on any person.

ix. The words used in sub-section (2) of section 13 of the Act "require any person or class of persons, whether registered or not to withhold full or part of the tax charged". These words are indicative of the legislative's intention that where the legislature wants that the tax is to be withheld by non-registered person it was clearly mentioned in the section. The word "notwithstanding" is considered to be a non-obstante clause and was considered in the reported judgment of *EFU General Insurance Company Limited versus Federation of Pakistan*. PLD 1997 SC 700 wherein it was held as under:-



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“...A non obstante clause is usually used in a provision to indicate that the provision should prevail despite anything to the contrary in the provision mentioned in such non obstante clause. In case there is any inconsistency between the non obstante clause and another provision, one of the objects of such a clause is to indicate that it is the non obstante clause which would prevail over the other clause”.

x. The Board with the approval of the Government of Sindh had framed Sindh Sales Tax Special Procedure (Withholding Rules) 2011 (hereinafter referred to as the Withholding Rules, 2011) in exercise of power vested in it under section 72 of the Act read with sub-section (4) of section 3, sub-section (3) of section 9 and section 13 of the Act. However after these were repealed, the Board with the approval of Government of Sindh framed Sindh Sales Tax Special Procedure (Withholding Rules) 2014 (hereinafter referred to as the Withholding Rules, 2014) effective from 01.07.2014. The tax periods involved from 01.07.2013 to 30.06.2014 was covered under Withholding Rules, 2011 and the tax periods from 01.07.2014 to 30.06.2016 was covered under Withholding Rules, 2014.

xi. The responsibility of withholding agent was provided under Rule 3 the Withholding Rules, 2011. Sub-rule (3) of the rule 3 of the Rules, 2011 provided that “a withholding agent having Free Tax Number (FTN), or National Tax Number (NTN) and falling under clause (a), (b), (c), (d), or (e) of sub-rule (2) of rule 1, shall on receipt of taxable services from unregistered persons, deduct sales tax at the applicable rate of the value of taxable services provided or rendered to him from the payment due to the service provider and, unless otherwise specified in the contract between the service recipient and the service provider, the amount of sales tax for the purpose of this rule shall be worked out on the basis of gross value of taxable services”.

xii. The responsibility of withholding agent was provided under Rule 3 of the Rules, 2014. Sub-rule (4) of the rule 3 of the Rules, 2014 provided that “a withholding agent having Free Tax Number (FTN) or National Tax Number (NTN) or Sindh sales tax registration number (STN) and falling under sub-rule (2) of rule 1, shall, on receipt of taxable services from unregistered persons, deduct the amount of sales tax, at the tax rate applicable to the taxable services provided or rendered to him, from the amount invoiced or billed or demanded or charged by



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such unregistered service provider and unless otherwise specified in the contract between the service recipient and the service provider, the amount of sales tax for the purpose of this rule, shall be worked out on the basis of gross value of taxable services {under the tax fraction formula}”.

xiii. It is evident from reading both the above provisions framed under section 13 of the Act that these have overriding effect over other provisions of the Act it was clear that the responsibility for payment of SST was shifted upon the recipient of taxable service from unregistered person. Section 13 of the Act is a special provision which deals with the responsibility of payment of SST and has an overriding effect on the other provisions of the Act. In the reported judgment of State versus Zia-Ur-Rehman PLD 1973 SC 49 it was held as under:-

“...It is well-established rule of interpretation that where in a statute there are both general provisions as well as special provisions for meeting a particular situation, then it is the special provisions which must be applied to that particular case or situation instead of the general provisions.

xiv. We have gone through the judgment of S.K. Steel relied upon by the AC as discussed supra. The operative part whereof reads as under:-

“...17. In view of the above, our answer to the proposed questions is that he combined reading of the provisions of the Act of 1990 and the Rules framed thereunder manifestly disclose the intention of the law maker that, where a person is liable to be registered, the applicant-department is first required to register that person compulsorily or otherwise in accordance with law, and then charge sales tax from it under section 3 of the Act, 1990, and may proceed against that person regarding prior to registration contravention of the provisions of the Act of 1990, if any. In that eventuality, tax payer shall be entitled to raise all factual and legal objections against the proceedings so initiated or to be initiated by the applicant-department which are not dealt with in this judgment”.

xv. The issue before the Court in the above judgment was whether the ATIR was justified to set aside the orders passed by both the authorities below holding that the Order-in-Original was finalized without registration or compulsory registration, ignoring that a person liable to be registered was also included in the definition under section 25 (2) of the Sales Tax Act, 1990. It is apparent from the reading of the Order that where a person is liable to be registered, the department is



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first required to register that person compulsorily or otherwise in accordance with law, and then charge sales tax from it under section 3 of the Act, 1990. However regarding prior to registration contravention of the provisions of the Act of 1990, if any, could also be proceeded against that person. No impression appears that the Court had held that the tax before registration was to be charged.

xvi. The Withholding Rules 2011 as well 2014 by specific provision shifted the responsibility of deduction and payment of SST upon the service recipient and not upon the non-registered service provider. No such provision is available in the Sales Tax Act, 1990 or rules framed there under. Thus the facts of the reported case of S.K. Steel supra are not applicable.

xvii. There is another provision i.e. sub-section (3) of section 15A of the Act which clarifies the position as under:-

“(3) No person other than a person registered under sections 24, 24A or 24B of this Act shall claim or deduct or adjust any input tax in respect of sales tax paid on any goods or services received or procured by him for use or consumption in the provision of taxable services”.

xviii. The contention of the AC-SRB that “all persons providing taxable services within Sindh are deemed to be registered persons” if accepted than there was no need to enact section 24, 24A and 24B of the Act. The acceptance of contention of the AC-SRB in this regard will make these provisions of the Act redundant and nugatory. Redundancy or superfluity of an Act of Parliament and a provision of law cannot be readily accepted.

xix. In view of the above discussions it is held that the appellant was not liable to pay/deposit SST before the date of its registration with SRB and the OIA is maintained in this regard”.

21. In view of the above discussions and relying upon our earlier decisions on the subject the OIO and OIA are set aside and it is held that unregistered service provided is not liable to pay SST to SRB and the responsibility of payment of SST was shifted upon the service recipient of un-registered service provider.

22. The appeal is disposed of. The copy of the order may be provided to the learned representatives of the parties.

Karachi.

Dated: 13.12.2022


(Justice Nadeem Azhar Siddiqi)
CHAIRMAN

Copy Supplied for compliance:

- 1) The Appellant through Authorized Representative.
- 2) The Assistant Commissioner, (Unit-08), SRB, for compliance

Copy for information to:-

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

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REGISTRAR
APPELLATE TRIBUNAL
SINDH REVENUE BOARD

13-12-2022

Order issued on


Registrar

13-12-2022

Order Dispatched on


Registrar