

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

APPEAL NO. AT-151/2022

M/s Qurban Ali Government Contractor
(SNTN: 3081132-5),
Near Railway Station, Abbasi Mohalla,
Shikarpur.Appellant

Versus

Assistant Commissioner (Unit-33),
Sindh Revenue Board (SRB)
Bungalow # 73, Opposite SZABIST Larkana,
Sachal Sarmast Colony, Larkana.....Respondent

Date of filing of Appeal 15.08.2022

Date of hearing 04.10.2022

Date of Order 11.10.2022

Mr. Asif Khaliq Shar, Advocate for appellant.

Mr. Zulfiqar Ali Metlo, AC-SRB, Larkana 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. 86/2022 dated 14.06.2022 passed by the Commissioner (Appeals-II) in Appeal No. 390/2019 filed by the Appellant against the Order-in-Original (hereinafter referred to as the OIO) No. 924/2019 dated 24.10.2019 passed by Syed Athar Ali Shah, Assistant Commissioner, (Unit-33) SRB, Sukkur.

02. The facts as stated in the OIO were that the appellant was registered with Sindh Revenue Board in the principle service category of "Contractor

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of Building” under Tariff Heading 9814.2000 as specified in Second Schedule to the Sindh Sales Tax on Services Act, 2011 (hereinafter referred as the Act) which was subjected to levy of Sindh Sales Tax (SST) at the rate applicable during the relevant tax periods on the value of taxable services provided by the appellant.

03. The appellant was served with a Show-Cause Notice (SCN) dated 08.04.2019 calling upon it to show cause as to why the SST liability of Rs.2,543,662/- should not be assessed and recovered from it under section 23 of the Act alongwith default surcharge under section 44 of the Act. The appellant was further called upon to explain as to why penalties under Serial.No.2,3,6 (d), 12 & 13 of the Table under section 43 of the Act should not be imposed.

04. The appellant failed to file any written response to the SCN and after providing several opportunities the Assessing Officer (AO) passed an exparte OIO determining the SST at Rs.2,543,662/- along-with default surcharge under section 44 of the Act (to be calculated at the time of payment). The AO also imposed penalty of Rs.580, 000/- under Serial No.2 & 3 of the Table under section 43 of the Act.

05. The appellant challenged the said OIO by way of filing of appeal under section 57 of the Act before Commissioner (Appeals), SRB who dismissed the appeal for non-prosecution.

06. Mr. Asif Khaliq Shar learned Advocate for the appellant submitted that the appellant was registered with SRB on 21.07.2017, whereas the SST was demanded from it from September 2016 to January-2019. He further submitted that the OIO was time barred since it was passed beyond the period of 180 days. He relied upon the judgment of Honorable Supreme Court of Pakistan in the case of Commissioner Inland Revenue, Zone-II versus Sarwaq Traders reported as 2022 PTD 1128 on the point that time provided under section 23 of the Act for passing OIO was mandatory.



07. The learned AC SRB Larkana Mr. Zulfiqar Ali Metlo, submitted that the appellant had provided services before registration and was liable to pay SST. He further submitted that the time for passing the OIO during the relevant tax periods was 180 + 60 (240) days and the OIO was passed within time allowed by law.

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

09. The AO determined the tax liability of Rs.2,543,662/- which was disputed by the appellant before us. The AC filed parawise comments and the Reconciliation Statement which shows that the outstanding SST liability was Rs.2,598,662/- out of which the appellant had already paid an amount of Rs.2,322,493/- leaving a balance of Rs.276,169/-.

10. The learned advocate for the appellant agreed to deposit the remaining SST liability amounting to Rs.276,169/= and signed the Reconciliation Statement as a token of acceptance of payment.

11. The learned AC submitted that the appellant was also required to pay default surcharge and penalty for late payment of SST and late filing of SST returns.

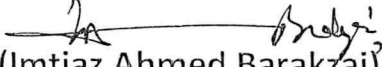
12. We have considered the submissions of both the parties. The AC worked out the remaining outstanding SST at Rs.276,169/- which the appellant has agreed to deposit with SRB. We therefore maintain the OIO to the extent of Rs.276,169/- only and direct the appellant to deposit Rs.276,169/- with SRB alongwith default surcharge within fifteen days from the date of receipt of this order. Moreover considering the circumstances of the case we remit the penalties under Serial No. 2 & 3 of the Table under section 43 of the Act. However if the appellant fails to deposit the SST within the above stipulated time he in addition to the payment of SST and default surcharge would also be liable to pay the penalty prescribed under Serial No. 3 of the Table under section 43 of the Act. The AC is required to

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[Signature]

provide the calculation of default surcharge to the appellant for payment of the same.

13. The appeal is disposed of in terms of para 12 above. The copy of the order may be provided to the learned representative of the parties.


(Imtiaz Ahmed Barakzai)
TECHNICAL MEMBER


(Justice® Nadeem Azhar Siddiqi)
CHAIRMAN

Karachi:

Dated: 11.10.2022

Copy Supplied for compliance:

- 1) The Appellant through Authorized Representative.
- 2) The Assistant Commissioner, (Unit-33), SRB, Larkana for compliance.

Copy for information to:-

- 3) The Commissioner (Appeals-II), SRB, Karachi.
- 4) Office Copy.
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REGISTRAR
APPELLATE TRIBUNAL
SINDH REVENUE BOARD

Order issued on

13/10/2022

Registrar

Order Dispatched on

13/10/2022

Registrar