

BEFORE THE APPELLATE TRIBUNAL SINDH REVENUE BOARD AT KARACHI

DB-I

APPEAL NO. 43/2022
(ARISING OUT OF APPEAL NO. 36/2019)

M/s Pioneer Express (Private. Ltd.
(SNTN # 1018767-7)
1-1/2, Block-6, PECHS, Karachi.....Appellant

Versus

Assistant Commissioner (Unit-05),
Sindh Revenue Board, (SRB)
2nd Floor Shaheen Complex,
M.R. Kiyani Road, Karachi.....Respondent

Date of Transfer of Appeal: 11.05.2022
Date of Hearing: 13.09.2022
Date of Order 13.09.2022

Mr. Raheel Ahmed, Assistant to Mr. Rao Nisar Ahmed, FCA for the
appellant.
Mr. Tasleem Ahmed Ghumro, AC-(Unit-05), SRB Karachi for respondent.



ORDER

Justice Nadeem Azhar Siddiqi: This appeal was filed by appellant challenging the Order-in-Original (hereinafter referred to as the OIO) No.65/2019 dated 29th January, 2019 passed by Ms. Lubna Najmi Assistant Commissioner, (Unit-05) SRB Karachi, and was transferred by Commissioner (Appeals), SRB to the Tribunal under section 57(9) of Sindh Sales Tax on Services Act, 2011 (hereinafter referred to as the Act) for disposal.

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02. It was stated in the OIO that scrutiny of SRB tax profile of the appellant revealed that the appellant had failed to e-file its monthly Sindh Sales Tax Returns(SST Returns) with SRB for the tax periods from July-2011 to June-2018, which was in violation of section 30 of the Act read with rule 12 &13 of the Sindh Sales Tax on services Rules 2011 (hereinafter referred as the Rules), which attracted penal action against the appellant as provided under Serial No.2 of the Table under section 43 of the Act.

03. The appellant was served with a Show-Cause Notice (SCN) dated 15.11.2018 to explain as to why the penalty as provided under Serial No.2 of the Table under section 43 of the Act should not be imposed for contravention of section 30 of the Act and Rules made thereunder.

04. The appellant neither appeared before the Assessing Officer (AO) nor filed any response to the SCN.

05. The AO imposed penalty of Rs.300,000/- under Serial No.2 of the Table under section 43 of the Act for non-filing of mandatory SST Returns for above said tax period as required under section 30 of the Act.

06. The appellant challenged the said OIO by filing appeal under section 57 (1) of the Act before Commissioner (Appeals), SRB who instead of hearing and deciding the appeal himself within the time provided in law

transferred the same after sufficient delay to the Tribunal under section 57 (7) of the Act for decision treating the same as appeal filed against the Commissioner (Appeals).

07. In the instant appeal the question was "Whether the Transfer Reference was time barred or not?". However none of the parties relating to the appeal have provided proper assistance to the Tribunal in this regard. This point was also raised in identical appeals transferred to the Tribunal, and the same would be decided on merits accordingly.

08. Mr. Rao Nisar Ahmed, FCA learned representative for appellant filed application for withdrawal of appeal, which read as under:-

"With reference to the above subject it is submitted that Appellant do not intend to pursue appeal and it is requested to kindly allow to withdraw the appeal no, 43/2022".



09. The learned AC has no objection for withdrawal of appeal. However, he submitted that appellant was liable to pay penalty for non-filing of returns.

10. Considering the fact that the appellant has filed application for withdrawal of appeal we are not touching the merits of the case and allow withdrawal of appeal. Therefore the instant appeal is hereby dismissed as withdrawn.

11. The copy of this order may be provided to the learned representative of the parties.


(Imtiaz Ahmed Barakzai)
TECHNICAL MEMBER


(Justice[®] Nadeem Azhar Siddiqi)
CHAIRMAN

Karachi:

Dated: 13.09.2022

Copy Supplied for compliance:

- 1) The Appellant through Authorized Representative.
- 2) The Assistant Commissioner, (Unit-05), SRB, for compliance

Copy for information to:-

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

Order issued on 15-09-2022


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Order Dispatched on 15-09-2022


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