

BEFORE THE APPELLATE TRIBUNAL SINDH REVENUE BOARD AT KARACHI

DB-1

APPEAL NO. 50/2022  
(ARISING OUT OF APPEAL NO. 342/2019)

M/s Bright Capital (Pvt) Limited,  
(SNTN: 4435850-4),  
29-C, Mezzanine Floor, Street8-A,  
Bader Commercial Area, Phase-V  
(Extension), D.H.A., Karachi.....Appellant

Versus

Assistant Commissioner (Unit-11)  
Sindh Revenue Board (SRB),  
2<sup>nd</sup> Floor Shaheen Complex,  
M.R. Kiyani Road, Karachi..... Respondent

Date of Filing of Appeal Before  
Commissioner (Appeals), SRB: 24.7.2019  
Date of Transfer of Appeal  
To this Tribunal: 25.05.2022  
Date of hearing: 04.10.2022  
Date of Order; 12.10.2022

Mr. Asad Ali Khan, Advocate along with Mr. Shiraz Naeem, Accountant and  
Mr. Muhammad Shoaib, Director for appellant.

Ms. Sania Anwar, DC-SRB for respondent.



ORDER

Justice<sup>®</sup> Nadeem Azhar Siddiqi: This appeal was filed by appellant before  
the Commissioner (Appeals), SRB under section 57(1) of Sindh Sales Tax on

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*Asad Ali Khan*

Services Act, 2011 (hereinafter referred to as the Act) challenging the Order-in-Original (hereinafter referred to as the OIO) No. 615/2019 dated 02.07.2019 passed by Mr. Asif Ali, Assistant Commissioner, (Unit-11), SRB Karachi, and has been transferred to the Tribunal under section 59(7) of the Act treating the same as an appeal against the order of Commissioner (Appeals) for disposal in accordance with law.

02. The facts as stated in the OIO were that the appellant was registered with SRB under the service category of "Commission and Brokerage Foreign Exchange Dealings" under Tariff Heading 9813.6000 of the Second Schedule to the Act.

03. The appellant was served with a Show-Cause Notice (SCN) dated 14.02.2019 calling upon it to explain as to why the Sindh Sales Tax (SST) Of Rs.454,529/- for the tax periods from July, 2016 to June, 2017 should not be assessed and recovered under section 23(1) and section 47(1A) of the Act along with default surcharge under section 44 of the Act. The appellant was further called upon to explain as to why penalties under Sr. No. 3 and 6(d) of the Table under section 43 of the Act should not be imposed for contravention of the various provisions of the Act and Rules framed thereunder. The appellant filed written response to the SCN and submitted that the amount confronted in the SCN was inclusive of SST and that the appellant had correctly declared the value of taxable services and SST thereon.

04. The Assessing Officer (AO) passed OIO determining the SST at Rs.454,529/- along with default surcharge under section 44 of the Act. The AO also imposed penalties of Rs. 477,255/- under Serial No.3, and 6 (d) of the Table under section 43 of the Act.

05. 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 59



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(7) of the Act for decision treating the same as appeal filed against the order of Commissioner (Appeals).

06. The Commissioner (Appeals) in his report stated that 11 hearings were fixed but neither the respondent filed its report on the amended accounts nor the appellant appeared and instead adjournments were sought. It was further stated that in all 1035 days were lapsed out of which the appellant obtained adjournments of 139 days and a total of 896 (1035-139) statutory days had lapsed. It was further stated in the report that appeal time had expired on 09.04.2020 when 120 days had lapsed as provided under section 59 (5) of the Act.

07. Mr. Asad Ali Khan the learned advocate for the appellant submitted that the Financials statement for the year 2016-2017 was amended for the reason that in the months of October and December 2016 the value of services were mentioned as SST and the amended financials were submitted to the AC for reconciliation.

08. The learned DC-SRB for respondent submitted Reconciliation Statement for the tax periods from July, 2016 to June, 2017 and submitted that after checking the invoices the short paid SST was worked out to Rs.2,062/-.

09. The advocate for the appellant submitted that the appellant would pay the short paid SST along-with default surcharge within one week and mentioned that he did not want to press the instant appeal.

10. In this appeal the question was "Whether the Transfer Reference sent by Commissioner (Appeals), SRB was with in time or not?" None of the parties in the instant appeal have provided proper assistance to the Tribunal in this regard. However this point was also raised in other appeals transferred to the Tribunal, and the same would be decided on merits accordingly.

11. Considering the above discussion the OIO is maintained to the extent of Rs.2,062/-. We therefore direct the appellant to deposit


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*[Signature]*





Rs.2,062/- with SRB alongwith default surcharge within fifteen days from the date of receipt of this order. Moreover keeping in view the circumstances of the case we remit the penalties imposed by AO under Serial No.3, and 6 (d) of the Table under section 43 of the Act. However if the appellant fails to deposit the SST within the stipulated time it would also be liable to pay the penalty prescribed under Serial No. 3 of the Table under section 43 of the Act for late payment of SST in addition to SST and default surcharge. The AC on receipt of this order should immediately provide the calculation of default surcharge to the appellant for depositing of the same.

  
(Imtiaz Ahmed Barakzai)  
TECHNICAL MEMBER

  
(Justice® Nadeem Azhar Siddiqi)  
CHAIRMAN

Karachi:

Dated:12.10.2022

Copy Supplied for compliance:

- 1) The Appellant through Authorized Representative.
- 2) The Assistant Commissioner, (Unit-23), SRB, for compliance

Copy for information to:-

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

Certified to be True Copy

  
REGISTRAR  
APPELLATE TRIBUNAL  
SINDH REVENUE BOARD

Order issued on

14/10/2022

Registrar

Order Dispatched on

14/10/2022

Registrar