

BEFORE THE APPELLATE TRIBUNAL, SINDH REVENUE BOARD.
(Before: Mrs. Alia Anwer, Member Judicial)

Appeal No.AT-94/2022

M/s. Shaheen Foundation (SAPS),
SAPS Complex, Malir Avenue,
Cargo Terminal,
Jinnah International Airport,
Karachi. appellant

Versus

The Assistant Commissioner Unit-31,
Sindh Revenue Board,
Karachi. respondent

Mr. Abdullah Ahmed Hashmie, appellant's representative
Mr. Saindad Joyo, AC Unit-31, for respondent.

Date of hearing: 28.04.2023

Date of order: 28.04.2023

ORDER

The appellant has assailed the order dated 11.04.2019¹ passed by the Assistant Commissioner (Unit-31) vide Order-in-Original No.271 of 2019 (*hereinafter referred to as "the Original Order"*) whereby the appellant has been directed to pay as under;

- a. Sales Tax amounting to Rs.4,656,951/- along with default surcharge (to be calculated at the time of payment) under section 44 of the Act, 2011¹, and



1. The Sindh Sales Tax on Services Act, 2011.

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b. Penalty amounting Rs.232,848/- under serial No.3 of the Table in section 43 of the Act.

2. Per Original Order, the appellant i.e. M/s. Shaheen Foundation, (vide tariff heading 9826.0000 of the Second Schedule of the Act) is providing Airport services, which are chargeable to SST under sections 3, 8, 9 & 17 of the Act, read with rule 40 of the Rules².

3. During the scrutiny of appellant's Sales tax Returns for the tax period from July-2017 to June-2018 it transpired that appellant had claimed inadmissible input tax adjustment in terms of section 15A of the Act read with Rule 22A of the Rules, therefore; show-cause notice dated 20.01.2019 was served upon the appellant to explain as to why the amount of Rs.8,200,921/- be assessed under section 23 and 47 of the Act, respectively, so also as to why the penalties attracted should not be imposed on him.

4. In response to the above show-cause notice, appellant submitted all the invoices pertaining to the suppliers/companies mentioned in the show-cause notice. While perusing the above invoices learned Assistant Commissioner (Unit-31) allowed input credit adjustment to the extent of Rs.3,146,720/-. He, however; disallowed input credit adjustment to the extent of Rs.4,656,951/- including the supplies made to M/s. International Aeradio Pakistan.

5. Being aggrieved by and dissatisfied with the observations of Assistant Commissioner (Unit-31) to the extent of disallowance of input credit adjustment of Rs.42,964/- pertaining to the supplies made to M/s. International Aeradio Pakistan, appellant filed instant appeal before Commissioners (Appeals), which has been transferred to this Tribunal under section 59(7) of the

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Act. Besides filing appeal, appellant availed Tax Amnesty Scheme 2019 vide Notification No.SRB-3-4/8/2019 dated May 18, 2019 and deposited an amount of Rs.109,674/- (i.e. principal amount of Rs.42,964/- along with Rs.66,710/- being 10% default surcharge). Appellant claimed to have paid such amount under protest.

6. Learned counsel for appellant submits that during pendency of instant appeal before the Commissioner (Appeals), appellant's matter was referred for the reconciliation. He contended that during pendency of such reconciliation proceedings, statutory period (provided under section 59(5) of the Act, for disposal of appeal) expired, therefore; instant appeal was transferred to this Tribunal.

7. Learned counsel submits that the issue of disallowance of input tax amounting to Rs.42,964/- pertains to two invoices of International Aeradio Pakistan. He argued that appellant produced before learned Assistant Commissioner, both the invoices to show purchase of mother Board which was replaced during service. Learned counsel contended that said mother Board was installed in the scanning machine located at SAPS, Karachi. In support of such contention, learned counsel submitted service reports showing replacement of said mother Board so also the certificate issued by International Aeradio Pakistan (Pvt.) Ltd. Learned counsel argued that appellant is entitled to refund of the paid amount.

8. Mr. Saindad Joyo, AC Unit-31 raised objection to the certificate issued by International Aeradio Pakistan (Pvt.) Ltd. As the same does not bear signature. He, however; conceded to subject invoices and service reports showing


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replacement of mother Board of scanning machine located at SAPS, Karachi.

9. It is the matter of record that certificate issued by International Aeradio Pakistan (Pvt.) Ltd. is a computer generated document, which does not require signature. Record reveals that appellant has produced sufficient material to establish replacement of mother Board of scanning machine located at SAPS, Karachi and such transaction does fall within the definition of taxable service.

10. In view of the above position, instant appeal is hereby allowed with directions to the department to refund an amount of Rs.109,674/- to the appellant. The copy of this order may be provided to the learned representatives of the parties.


(ALIA ANWER)
Member Judicial,
Appellate Tribunal,
Sindh Revenue Board.

Certified to be True Copy

Karachi;
Dated: 28.04.2023.

Copy supplied to:-

1. The appellant through authorized representative,
2. The Assistant Commissioner (Unit-28), SRB, Karachi,
3. The Commissioner (Appeals), SRB, Sindh,
4. Office File, and
5. Record file.


01-06-2023
REGISTRAR
APPELLATE TRIBUNAL
SINDH REVENUE BOARD

Order issued on

01-06-2023


Registrar

Order Dismissed

01-06-2023


Registrar