

APPELLATE TRIBUNAL INLAND REVENUE, LAHORE
SPECIAL SINGLE BENCH (CAMP AT MULTAN)

ITA No. 1351/LB/2015
(Tax Year-2013)

The Commissioner Inland Revenue,
Withholding Taxes Zone,
RTO, Multan

.....Appellant

Versus

M/s Servo Motor Oils (Pvt) Ltd
Industrial Estate Multan

..... Respondent

Appellant by	:	Mr. Muhammad Arshad, DR
Respondent by	:	Mr. Riaz Ahmed Raja, ITP
Date of Hearing	:	23.06.2020
Date of Order	:	23.06.2020



ORDER

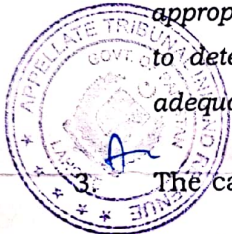
MIAN ABDUL BAIST, JUDICIAL MEMBER: Through the instant appeal the department has assailed the order dated 04-03-2015 passed in appeal

No.458 pertaining to tax year 2013 by the Learned Commissioner Inland Revenue (Appeals), Multan under Section 129 of the Income Tax Ordinance, 2001 on the grounds set forth in the appeal memo.

2. That the brief facts, I find from the perusal of the appeal file, are that the respondent taxpayer is a private limited company derived income from refining petroleum products. Proceedings under section 161 of the Income Tax Ordinance, 2001 were initiated against the taxpayer, statelty to monitor the compliance as withholding agent. In response to show cause notice the taxpayer furnished details & documents such as purchase invoices, copies of ledger accounts and proof of tax deduction/ exemption certificate wherever applicable. The IRAO found portion of payments to some extent as below taxable limit however, details of payments made for purchase of some items were not accepted by the officer concerned. Therefore, the IRAO proceeded to hold the taxpayer as personally liable under section 161 of the

Ordinance, 2001 to deduct the tax and paid the same to government exchequer vide order dated 09-09-2014. Hence the taxpayer filed appeal against order, passed u/s 161/205 of the Income Tax Ordinance, 2001, under section 127 of the Ordinance, 2001 before the learned CIR (Appeals), Multan who annulled the assessment order and remand the case in the following manner:-

"The arguments adduced by the AR have been considered. Although IRAO has given some reasons for holding the appellant taxpayer as personally liable, yet it is observed that learned Tribunal in judgment cited as 2012 PTD (Trib) 122 has held that withholding default cannot be established unless the exact names and addresses of the persons to whom payments attracting the withholding provisions of law under the ordinance are made. The amount of payment and tax to be withheld thereon is also to be established. In view of above, it is deemed appropriate to annul the impugned order. The officer may call for record to determine exact amount of default under the law after providing adequate opportunity of hearing"



3. The case was taken up for hearing on 22.06.2020, the Departmental Representative as well as counsel for taxpayer's company appeared on behalf of appellant and respondent respectively.

4. I have gone through the record of appeal file and considered the arguments of the rival parties. It is noted that the case relates to non-deduction/ nonpayment of withholding tax which surfaced the violation of the provision of section 153 and 161 of the Ordinance, 2001. The learned CIR (Appeals) has observed that the assessing officer while framing the assessment order chose the figures at random from the details provided by the respondent / tax payer without assigning any reasons and assessing officer did not refer the documents not acceptable to him. The approach of the assessing officer is not in consonance with the practicing proceedings because a tax is to be levied and charged on a clear and definite verdict and ascertainment. The learned CIR (A) has rightly observed that the department should give the detail of documents alongwith the party name

