

IN THE APPELLATE TRIBUNAL INLAND REVENUE, LAHORE BENCH,
LAHORE

STA No.637/LB/2020

M/s. Shah Sons Pakistan Pvt, Ltd., Multan.

Appellant

Versus

CIR, RTO, Multan.

Respondent

Appellant by : Mr. Riaz Ahmad Raja, Advocate.
Respondent by : Ms. Sadia Nadeem, D.R.

Date of hearing : 01.12.2021

Date of order : 28.02.2022

ORDER

Sajjad Asghar Khokhar, (Judicial Member):-The titled appeal has been preferred by the registered person calling in question the impugned appellate order-in-appeal No.259 dated 18.06.2020, passed by the learned CIR(Appeals), Multan.

2. Facts briefly, on the scrutiny of Sales Tax record for the period July-2018 to June-2019, it was observed by the DCIR that registered person did not charge and pay extra tax @ 2% on supplies amounting to Rs.212,033,903/- in violation of subsection 5 of section 3 of the Sales Tax Act, 1990 read with SRO(I)/2013 dated 04.10.2013. A show cause notice for violation of section 3,6,22,26 and 73 of the Sales Tax Act, 1990 was issued. Registered person submitted reply along with documents. Assessing officer passed order dated 18.03.2020 directing the registered person to deposit sales tax at Rs.2,767,179/- along with penalty and default surcharge under the sales tax act, 1990.

3. Being aggrieved, registered person preferred appeal before the CIR(A) who disposed of the case and annulled the order of the assessing officer with direction to the department to verify the same facts.

4. Feeling dissatisfied, the registered person has come up in appeal before this forum.

5. We have heard the arguments of the parties. Perusal of the impugned order reveals that while disposing appeal, learned CIR(A) observed as under:-

"Arguments of the learned AR have been considered. It is observed that FBR issued STGO NO.27/2014 dated 08.03.2014 which lays down that levy of Extra Tax @ 2% shall not apply on the supply of goods of Auto-parts and accessories. In the instant case, the supply was made to M/s. Millat Equipment Ltd., Lahore which is also an auto parts manufacturer. This unit is registered with the Sales Tax under PTC Heading 8705 which relates to motor vehicle. The contention of the appellant that supply made to M/s. Millat Equipment Ltd., is also covered under the said provisions. Hence, Order-in-original passed by the IRO is hereby annulled, with the directions to the department to verify the same facts and legal position."

6. In view of the foregoing facts, impugned order does not suffer from any legal infirmity, however, since the Commissioner has already annulled the order of the assessing officer on the basis of STGO No.27/2014 dated 08.03.2014 which lays down that levy of Extra Tax @ 2% shall not apply on the supply of goods of Auto-parts and accessories. We are of the considered view that the Learned CIR(A) was not justified to remand back the case and its action is in violation of sub-section (3) of Section 45-B of the Sales Tax Act, 1990 particularly when the Commissioner has annulled the orders of the adjudicating authority after holding the impugned show cause notices as coram non judice and without lawfully authority. Under the such circumstances, we modify the order of the learned CIR(A) to the extent that the direction to the department to verify the same facts and legal position is deleted and case is disposed of as stated above. Order accordingly.

Sd/-

(DR. MUHAMMAD NAEEM)
Accountant Member

Sd/-

(SAJJAD ASGHAR KHOKHAR)
Judicial Member

Copy of the order is forwarded to
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