

IN THE APPELLATE TRIBUNAL INLAND REVENUE LAHORE
BENCH, LAHORE

M.A (Stay) No.1328/LB/2014

STA No.619/LB/2014

M/s Islam Engineering (Pvt) Ltd, Lahore.

...Applicant

Versus

The CIR Zone-VIII, RTO-II, Lahore.

...Respondent

Applicant by : Mr. Muhammad Aamir Qadeer, Advocate.
Respondent by : Ch. Jaffar Nawaz, D.R.
Date of hearing : 11.06.2014
Date of order : 11.06.2014

ORDER

Through this miscellaneous application/appeal the applicant/registered person has sought suspension of the order of learned Commissioner Inland Revenue bearing C.No./ST/Suspension/Audit Cases/14/591 dated 06.06.2014 whereby he has suspended the registration. In the miscellaneous application the applicant seeks stay against the suspension order whereas through appeal he wants cancellation of the impugned order. Since the matter of suspension of registration is involved which has serious affect on the business repute, we deem it fit to hear the main appeal along with the stay application also. After hearing both the parties these are disposed of as under.

2. Brief facts are that the case of the appellant was selected by the Commissioner Inland Revenue for the tax period July, 2012 to June, 2013 u/s 25 of the Sales Tax Act, 1990 on the basis of CREST information that the appellant had claimed inadmissible input tax against the invoices issued by the blacklisted units. Therefore, the appellant was confronted with the discrepancy regarding claiming of inadmissible input tax vide letter dated 11.04.2014 and asked to provide proofs regarding compliance of Section 73 of the Sales Tax Act, 1990. The appellant provided the

relevant proofs regarding compliance of Section 73. However, as per the impugned order, the documents furnished by the appellant were forged one. In such circumstances, it was observed that the appellant had committed a tax fraud in terms of Section 2(37) of the Sales Tax Act, 1990. Hence, in exercise of powers conferred u/s 21(2) of the Sales Tax Act, 1990 read with Rule 12 of the Sales Tax Rules, 2006 and Clause 'N' of the STGO No.03/2004 dated 12.06.2004 as amended vide STGO No.35/2012 dated 30.06.2012 Sales Tax Registration of the appellant is suspended till further orders.

3. The learned A.R has assailed the impugned order as unjustified and arbitrary. To elaborate his contention, he stated "that Section 21(2) clearly provides that if the registered person is found to have issued fake invoices or committed a tax fraud, then his registration can be suspended or he may be declared blacklisted in accordance with the procedure laid down by the Board through notification in the official gazette." He contended that no such notification in the gazette having been issued by the Board, hence, the action of the learned Commissioner was contrary to the ratio settled by the Honourable Supreme Court of Pakistan in the judgment reported as PLD 2011 (S.C) 374. Reliance in this regard was also placed on the orders of the Tribunal bearing STA No.1195/LB/2013 & STA No.1194/LB/2013 dated 28.01.2014.

4. The learned D.R, on the other hand, opposed the contentions by supporting the reasons recorded in the impugned order.

5. We have heard the rival parties, perused the available record and are in consonance with the line of arguments adopted by the learned A.R. Admittedly, Section 21 laid down a procedure for the de-registration,

suspension and blacklisting and the Board had duly prescribed the said procedure though SRO No.555/1/2006 dated 02.06.2012 which was also notified in the official gazette. However, the said SRO was subsequently rescinded and the Board has issued another STGO No.35/2012 dated 30.06.2012 regulating the procedure for suspension/blacklisting. But the said procedure has not been notified in the official gazette so far as provided in Section 21(2) of the Act. Hence, we agree with the contention of the learned A.R that until or unless the notification regulating procedure for suspension/blacklisting is not notified in the official gazette the same is not in accordance with law and have no legal effect. In the case law relied upon by the learned A.R the same view has also been adopted by the Tribunal and the orders of suspension of registration/blacklisting were vacated. Considering this position in view, we have no option except to annul the impugned order meaning thereby the registration of the appellant stands restored. Since we have accepted the main appeal the miscellaneous application has become infructuous and is disposed of as such.

SD/-

(MUHAMMAD AKRAM TAHIR)
ACCOUNTANT MEMBER

SD/-

(CH. SHAHID IQBAL DHILLON)
JUDICIAL MEMBER