

[Inland Revenue Appellate Tribunal]

*Before Nazir Ahmad, Judicial Member and
Khalid Aziz Banth, Accountant Member*

Messrs AMTEX (PVT.) LTD. and another

versus

CIR (LEGAL DIVISION), R.T.O., FAISALABAD and another

S.T.As. Nos.1112/LB and 1739/LB of 2009, decided on 6th February, 2012.

Khubaib Ahmad for Appellants (in S.T.A. No.1112/LB of 2009).

Sajjad Taslim, D.R. for Respondents (in S.T.A. No.1112/LB of 2009).

Sajjad Taslim, D.R. for Appellants (in S.T.A. No.1739/LB of 2009)

Khubaib Ahmad for Respondents (in S.T.A. No.1739/LB of 2009).

Date of hearing: 30th January, 2012.

ORDER

The taxpayer being aggrieved by the order of the CIR(A) Nos.693 and 694 dated 9-2-2008 has come up in appeal before this Tribunal assailing the orders of the authorities below.

2. The brief facts of the case are that while scrutinizing claim in the month of April, 2005 of refund a sum of Rs.1,54,30,835 was deferred. In response to show-cause notice refund amounting to Rs.1,16,31,972 was accepted and the balance amount of Rs.37,73,068 was rejected. The CIR(A) vacated the order-in-original to the extent of Rs.29,30,253 and upheld the order-in-original to the extent of Rs.7,55,048. The registered person had claimed credit of input tax from the following suppliers and claimed input tax in the following manner:--

SCRUTINY FOR VERIFICATION OF INPUT TAX

Adeel Packages	526,500
Chem-Tech International	40,308

Khurshid Enterprises	22,500
Pak Asia Autos	165,740
GRAND TOTAL	755,048

Case was heard and argued at length both by the registered person's counsel and the Departmental Representative. The registered person's counsel argued that the objections raised by STARR related to scrutiny for verification of input tax and is guideline for tax collectors and enforce the provisions of law where payment of tax by the suppliers is not made or the suppliers are engaged in short payments. It was also argued that the payments to the alleged suppliers were made through proper banking instruments as required by section 73 of the Sales Tax Act, 1990. It was also contended by the counsel that the copies of gate passes through which the goods were received from the said suppliers was also made available at the time of audit along with bank statements and the copies of the relevant cross cheques was also produced before the adjudicating authority. It was also argued by the counsel of the registered person that all the four suppliers were regular filer of sale tax returns and were paying the output tax which was due from them in their monthly sale tax returns. The D.R on the contrary, argued that Adeel Packages from which input of Rs.5,26,500 had been claimed was still blacklisted. The counsel of the taxpayer produced copies of sales tax returns of the said suppliers which indicated that Pak Asia Autos from which an input tax of Rs.1,65,740 had been claimed had made total supplies of Rs.56,45,000 during the impugned period and had filed the sale tax return to the department. Similarly, Adeel Packages during the impugned period had made supplies 32.252 Million and had deposited Rs.1,89,872 during the impugned period. The order of blacklisting of the said unit has already been vacated by the Appellate Tribunal Inland Revenue. With regard to Chem. Tech. International from whom claim of input tax of Rs.40,308 had filed its sale tax returns for the impugned period and paid output tax and value addition amounting to Rs.4,933 the summary of invoices showed sales made to the registered person. Similar facts are with regard to Khurshid Autos. Keeping the above facts in view, we find no merit in the findings of the impugned CIR(Appeal)'s order and accordingly ordered vacation of the orders of the authorities below to the above extent.

DEPARTMENTAL APPEAL

In cross appeals, the department has assailed the above impugned order. The R.T.O., Faisalabad has agitated the order of the CIR(Appeals) on issues of allowance of input tax by CIR(Appeals) and mismatch of MR No. and date.

Supplier's Name & Reg. No.	Sales Tax Rs.	Objections
Messrs Sultan Trading Co.	824,514	Scrutiny for verification of input tax
8-8-2800-001-19		
Messrs Oberoi and Oberoi (Pvt.) Ltd., 03-05-2847-002-19	64,174	Scrutiny for verification of input tax
Messrs Ibrahim Packages 08-01-4800-006-28	27,120	Scrutiny for verification of input tax
Messrs Haroon Chemicals 08-80-2900-012-73	199,236	Abnormal Tax Profile
Shipping Bill No.109789	480,785	Mr. No. and Date Mismatched
Shipping Bill No.113137	618,357	Mr. No. and Date Mismatched
Shipping Bill No.115088	326,633	Mr. No. and Date Mismatched
Total	2,540,819	

3. The brief facts of the case are that during the processing of the refund claim of the registered person the automated refund system raised certain objections which are "Scrutiny for verification of input tax" "Abnormal Tax Profile" and MR No. and date mismatch. The counsel of the appellant argued that compliance of the provisions of section 73 was duly made and the registered person also produced evidence in the shape of gate passes indicating the physical receipt of the goods. Similarly, bank statements and copies of cheques were also made available before the Revenue authorities at the appropriate time. It was also argued that by the counsel of the taxpayer that the registered person was leading exporter of textile products and had won the export profit on a number of occasions. He dislodged the department's contentions as claimed in the grounds of appeal. He argued and explained the matter in the case of each supplier. In the case of Sultan Trading Company from which an input tax of Rs.8,24,514 had been claimed and the counsel produced a copy of the letter issued by the Regional Tax Office, Faisalabad dated 24-3-2007 in which an audit was carried out and an output tax of the detected amount of Rs.10,566 was got deposited. The Collector of Sales

Tax in 2007 recommended to the Federal Board of Revenue to remove the name of the unit from the abnormal profile list. Similarly, in the case of Messrs Oberoi and Oberoi (Pvt.) Ltd., the counsel of the respondents produced a letter of the Collector of Sales Tax, Lahore addressed to the Collector Sales Tax, Faisalabad and authorities in F.B.R. in which the detected amount from the supplier was got deposited and the objection regarding scrutiny for verification of input tax was got removed as is evident from the Collector's letter No.987 dated 28-3-2008. As regards the input tax from Ibrahim Packages amounting to Rs.27,120 is concerned an audit was conducted and the concerned Revenue authority recommended that the case of the alleged supplier may be re-moved from i.e., showing Abnormal Tax Profile. As far as the case of Haroon Chemicals from which input tax of Rs.1,99,236 was concerned the counsel for the taxpayer produced F.B.R's letter No.C.No.1(8)CO/STM/2009 dated 26-5-2009 excluding the units name from STARR's objection regarding Abnormal Tax Profile/Scrutiny for verification of input tax. With regard to MR No. and date mismatch in the impugned order, the registered person produced letter from the Collector of Customs, Karachi verifying the genuineness of the alleged shipping bills.

4. Keeping the facts in view, we find no merit in the contentions of the department and accordingly order the appeal to be dismissed.
