

IN THE APPELLATE TRIBUNAL INLAND REVENUE  
LAHORE BENCH, LAHORE

STA No.956/LB/2013

STA No.48/LB/2013

M/s. Fast Tech Engineering Co., Lahore. Appellant

Versus

CIR Zone-VI, R.T.O, Lahore. Respondent

Appellant by : Mr. Muhammad Ajmal Khan, Adv.  
Respondent by : Mr. Sajjad Tasleem, D.R

Date of hearing : 10.07.2014  
Date of order : 01.09.2014

**ORDER**

These appeals have been preferred at the instance of the registered person and are directed against the two orders dated 27.08.2013 passed by the learned Commissioner Inland Revenue, Lahore.

2. Through these appeals under consideration the appellant has sought suspension of the sales tax registration of the registered person vide order CIR/ZONE-VI/46-ST/499 dated 27.08.2013 whereby the appellant company has been declared suspended.

3. Facts of the case in brief are that a report from Director of Intelligence and Investigation FBR, Lahore received that the registered person is found involved in issuance of fake sales tax invoices to different manufacturers/wholesalers etc. enabling them to claim illegal input tax adjustment. Monthly sales tax returns were being filed by the gang through web portal. The

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registered person was summoned by the Directorate of Intelligence and Investigation FBR at the available address but the registered person failed to join the proceedings and submissions of requisite record in terms of section 37 read with section 38 of the Sales Tax Act, 1990. The Directorate of Intelligence and Investigation FBR has recommended for suspension of sales tax registration. The learned Commissioner Inland Revenue, Zone-VI, RTO, Lahore, exercised his power conferred u/s 21(2) of the Sales Tax Act, 1990 read with Rule-12 of the Sales Tax Rules-2006 dated 05.06.2006. He suspended the sales tax registration with immediate effect which is now being impugned in the present appeal before us.

4. The learned A.R, vehemently, challenged the impugned order as unjustified and arbitrary. He stated that the impugned order has been passed by the learned CIR without issuing any show cause notice and without giving any opportunity of being heard to the registered person. He stressed that it is a settled principle of law that any order passed without issuing a show cause notice and without affording an opportunity of hearing, is nullity in the eyes of law and the natural justice commonly recognized by the Superior Courts in Judgment reported as PLD 1958 Pesh. 157 and PLD 1965 Pesh. 162, wherein it is held as under:-

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- i) every person whose civil rights were affected must have a reasonable notice of the case he had to meet;
- ii) he must have reasonable opportunity of being heard in his defence;
- i) the hearing must be by an impartial authority; and
- ii) the authority must act in good faith and not arbitrarily but reasonably.

According to him, the order of suspension of GST was passed on the basis of inquiry/report submitted by the learned Directorate of Intelligence and Investigation FBR and CIR without application of independent/judicious mind which is liable to be set aside. The learned D.R, on his turn, supported the orders of the learned Commissioner and prayed for upholding the same.

5. We have given due consideration to the rival arguments and also gone through the available record. It has been observed that the order of suspension of General Sales Tax was passed on the allegation of non-production of record which was completely denied by the appellant. In fact it was specifically pleaded that the no show cause notice was issued by the CIR before passing the suspension order, therefore, action of the learned Commissioner is based on presumptions. The contentions of the learned AR carry weight. We feel that the impugned order was passed without appreciating the facts of the case and providing reasonable opportunity of

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hearing to the appellant and without consulting the record.

Therefore, it would be appropriate if the impugned order is set aside and the case is remanded to the Learned Commissioner for passing a speaking order after providing reasonable opportunity of hearing. The registered person is also directed to produce the relevant record before the learned CIR, Zone-VI, RTO, Lahore for verification. Order accordingly.

6. The appeals of the registered person are disposed of in the manner stated above.

Sd/-  
( MUHAMMAD RAZA BAQAR )  
Accountant Member  
Sep.14/75-78

Sd/-  
( MUHAMMAD WASEEM CH. )  
Judicial Member