

**APPELLATE TRIBUNAL INLAND REVENUE LAHORE.**

**ITA No.543/LB/2012  
(Tax Year 2007)**

The CIR, Zone-I LTU, Lahore.

...Appellant

Versus

M/s. Kohat Cement Company Ltd.,  
Lahore.

...Respondent

Appellant by : Mr. Waqas Ahmad Bajwa, DR(LTU).

Respondent by : Mr. Viqar A. Khan, FCA.

Date of hearing : 28.02.2017

Date of order : 10.03.2017



**ORDER**

**MASOOD AKHTAR SHAHEEDI (Accountant Member):** Through the titled appeal the department has challenged the order No.25 dated 15.02.2012 for the tax year 2007 passed by the learned CIR(A-I), Lahore.

2. The learned DR has vehemently contended that the CIR(A) was not justified to vacate the order passed u/s 124/161/205 without considering the facts. On the other hand the learned AR supported the impugned order by submitting that the order of the DCIR was illegal as the tax was properly deducted wherever was required. He further submitted that in compliance to the notice issued by the DCIR the taxpayer submitted comprehensive reconciliation under Rule 44(4) of Income Tax Rules, 2002 together with under lying documentation & books of accounts and assessment was finalized without pinpointing any discrepancy or single default.

3. We have heard the arguments of both sides and perused the relevant record. After perusal of assessment order we agree with the contention of the learned AR that the DCIR failed to point out any discrepancy or single default from the record produced by the taxpayer before him. In our opinion the order impugned before us is well

reasoned and in accordance with law. The operative part of the same is reproduced as under:-

*"I have considered the arguments and perused the record. In the impugned order, the only observation of the learned Officer is as under:-*

*"the payments shown in withholding statements u/s 165 have been reconciled with the expenses claimed in audited accounts and certain discrepancies have been observed."*

*Unfortunately, the learned officer has not mentioned what are those discrepancies. When juxtaposed with original order it is evident that the impugned order is mere repetition of the original order. It is, therefore, evident that the order has been passed without proper application of mind. Even in the computation of the tax demand it is nowhere mentioned where the appellant erred in non-deduction of tax. I fail to understand in the presence of the detail/evidence of tax deduction why the demand has been raised without specifying the instances of non-deduction. Creation of huge demand exceeding Rs.50 million with single stroke of pen cannot be sustained on any basis. As the matter was already set-aside by the learned Tribunal the concerned Officer was required to be doubly cautious before taking any action u/s 161. The impugned order, therefore, is vacated.*

In view of above we find no merit in departmental appeal which is hereby dismissed. Order accordingly.

Sd/-  
(MASOOD AKHTAR SHAHEEDI)  
Accountant Member

Sd/-  
(QAMAR UL HAQ BHATTI)  
Judicial Member