

APPELLATE TRIBUNAL INLAND REVENUE, LAHORE
(CAMP AT MULTAN)

ITA No.259/LB/2018
(Tax Year 2017)

The CIR, RTO, Multan.

...Appellant

Versus

M/s. Ali Aqib & Company, Multan.

...Respondent

Appellant by:

Mr. Muhammad Sultan, DR

Respondent by:

Mr. Muhammad Imran Ghazi, Advocate

Date of Hearing:

11.05.2018

Date of Order:

11.05.2018

ORDER



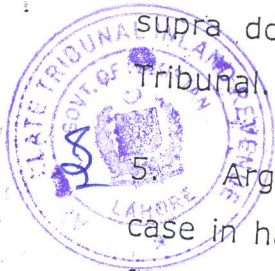
SHAHID MASOOD MANZAR (CHAIRMAN): The tilted appeal pertaining to tax year 2017 filed at the instance of the taxpayer has been directed against the appellate order dated 22.09.2017 recorded by CIR(Appeals), Multan.

2. Brief facts emanating from record are that the taxpayer being a prescribed person was under legal obligation to e-file monthly statement of withholding tax in terms of section 165 of the Income Tax Ordinance, 2001 (hereinafter called 'the Ordinance') but he failed to file the statement for the month of August 2016 within stipulated time. Therefore, penalty proceedings were initiated by way of issuance of show cause notice dated 26.09.2016 followed by subsequent reminder dated 27.10.2016 but no compliance was made. Resultantly, the proceedings culminated in passing of order u/s 182(1) of the Ordinance, wherein penalty of Rs.10,000/- was imposed. Feeling aggrieved by the said treatment, the taxpayer went in appeal before CIR(Appeals), Multan, who by placing reliance on a case law cited as 2008 PTD 1841 deleted the penalty imposed by the assessing authority. Aggrieved by the said relief, the department has come up in further appeal before this Tribunal.

3. The learned DR appearing on behalf of the department has termed the relief allowed by learned CIR(Appeals) to be

arbitrary. He has vehemently argued that since, the withholding statement u/s 165 of the Ordinance was not filed within stipulated time, therefore, default committed by the taxpayer was liable to be penalized. According to him, deletion of penalty by learned CIR(Appeals) finds no legal sanctity.

4. On the other hand, the learned counsel appearing on behalf of the taxpayer has admitted late filing of statement but he vehemently argued that since, in the instant case no loss of revenue is involved, therefore, relief allowed by learned CIR(Appeals) being supported by the judgment of this Tribunal supra does not warrant any interference at the level of this Tribunal.



5. Arguments heard and record perused. Admittedly, in the case in hand, statement u/s 165 of the Ordinance could not be filed within time. However, I also find myself in agreement with the contention of taxpayer's representative that since, no loss of revenue is involved in the case in hand, therefore, relief allowed by learned CIR(Appeals) by deleting the penalty of Rs. Rs.10,000/- by placing reliance on the judgment of this Tribunal seems to be justified and I find no plausible reason for interference. In view of the foregoing discussion, the impugned order suffering from no legal infirmity is hereby confirmed by way of dismissal of instant departmental appeal. I order accordingly.

Sd/-

(SHAHID MASOOD/MANZAR)
Chairman

Empowered u/s 130(BAA) of the Income Tax Ordinance, 2001 to exercise the powers of Appellate Tribunal Inland Revenue, sitting singly.

Copy of the bench order forwarded to

1. The Appellant
& THE CIR,

M. A. Malik & Company Attorneys

By order
Judges

Appellate Tribunal Inland Revenue
Lahore.

24/06/18