APPELLATE TRIBUNAL INLAND REVENUE, MULTAN BENCH, MULTAN

STA No. 310/MB/2021

M/s Green Valley, Prop: Tanveer Shahid, Multan.

Appellant

Versus

CIR, Multan Zone, RTO, Multan.

Respondent

Appellant by:

Mr. M. Imran Ghazi, Adv.

Respondent by:

Mr. M. Qaswar Hussain, DR

PAKIS Date of hearing: 22-03-2022

Date of order: 18-04-2022

ORDER

Mian Abdul Basit, (Judicial Member): The titled appeal has been preferred at the instance of registered person calling in question the impugned order C. No.CIR.MZN/RTO/NON-FILER/2019-20/50/3621, dated 15.10.2020, passed by the learned CIR, Multan Zone, RTO, Multan, whereby he blacklisted the sales tax registration of the appellant.

- Briefly stated, the relevant facts for disposal of present appeal are that it was reported that the registered person is consecutive nonfiler of sales tax returns. For the said reason, sales tax registration of the registered person was suspended. Subsequently, blacklisting proceedings were initiated and concluded exparte. The learned CIR passed the impugned blacklisting order in exercise of powers conferred upon under section 21(2) of the Sales Tax Act, 1990, read with Rule 12 of the Sales Tax Rules, 2006.
- It is the submission of the learned AR before us that the learned 3. CIR was not justified to declare the appellant's status as blacklisted. It is submitted by the learned AR that impugned order passed by the learned CIR on 15.10.2020 was never served upon the appellant, therefore, the registered person vide application requested for

issuance of attested copy of the blacklisting order. On the said request of the appellant, the concerned Commissioner issued attested copy of the order on 01.11.2021 and thereafter, appeal was filed before this Tribunal on 30.12.2021, hence, the same is within the time limitation as provided under the law. It is contended by the learned AR that the sole allegation leveled for suspension/blacklisting

FIBUNAS Consecutive non-filing of sales tax whereas the registered person had submitted sales tax returns though belatedly. It is further submitted by the learned AR that the suspension order was never served upon the registered person and even the blacklisting listing order was received from the Office of the Commissioner when he approached the office for supply of certified copy. It is contended by the learned AR that impugned order was passed without affording an opportunity of hearing to the appellant which is against the ratio settled in the judgment of the Hon'ble Lahore High Court reported as 2018 PTD 1042. It is further submitted the impugned blacklisting order is ab initio void, illegal and unlawful in the absence of any material evidence establishing incidence of tax fraud or issuance of fake invoices as laid down u/s 21(2) of the Act. He submitted that any action for blacklisting of registration u/s 21(2), required tow violations of mandatory incidence of tax fraud i.e. (i) if registered person is found to have issued fake invoices; (ii) or has otherwise committed tax fraud. He contended that both these conditions were not established before blacklisting the registration the registered person, therefore, the order is not sustainable in the eye of law.

4. Conversely, the learned DR supported the order of the learned CIR and contended that the registered person had failed to furnish its sales tax returns and that in response to show cause notice issued, the appellant failed to make any response.

(3)

- 5. We have heard the arguments and perused the available record. After due consideration, we find that the only allegation leveled against the appellant is non-filing of sales tax returns whereas it is the claim of the registered person that returns were filed Belatedly. Sub-section (2) of section 21 of the Sales Tax Act, 1990 empowers the Commissioner Inland Revenue to blacklist or suspend the registration of any registered person who is involved in evasion of sales tax, committing tax fraud or issuing fake invoices. Undisputedly in the instant case, neither any audit is conducted to establish the appellant's involvement in tax evasion, fraud nor did the Department have any other proof of his involvement in claiming input tax on the basis of fake invoices or issuance of fake invoices. It is now well settled principle of law that where a statute prescribes a particular mode or mechanism to do an act, the same is to be done in the manner and within the framework of relevant legal provisions.
- In view of the foregoing discussion, the blacklisting order dated
 15.10.2020 passed by the Commissioner Inland Revenue, Multan
 Zone, Multan, is cancelled.
- Appeal of the registered person succeeds in the above manner.

(MIAN ABDUL BASIT)
Judicial Member

(DR.MUHAMMAD NAEEM)
Accountant Member