

APPELLATE TRIBUNAL INLAND REVENUE OF PAKISTAN
DIVISION BENCH, MULTAN

STA No.83/MB/2024
MA (Stay) No.259/MB/2024

M/s. MZ Trading & Enterprises,
Mujahid Town, Near ABL Bank,
Old Shujabad Road, Multan
STRN No:3277876324250

Appellant

Versus

The CIR, Multan Zone, RTO, Multan

Respondent

Appellant by : Mr. Muhammad Imran Ghazi, Adv
Mr. M. Naseer-ud-Deen Hamayoun, Adv

Respondent by : Mr. Zahid Mahmood, CIR, Multan Zone,
(on Court call)
Mr. Haroon Rashid, DR

Date of hearing : 03.04.2024

Date of Order : 03.04.2024

ORDER


MIAN ABDUL BASIT (JUDICIAL MEMBER): The above-titled appeal has been filed by the registered person before this Tribunal under section 46(1)(b) of the Sales Tax Act, 1990 against the impugned order of Suspension of Sales Tax Registration vide Order No. CIR/MNZ/RTO/2024/8663 dated 26.03.2024, passed under section 21(2) of the Sales Tax Act, 1990 (**The Act, 1990**) by the learned Commissioner Inland Revenue, Multan Zone, RTO, Multan (**the Commissioner**). The order of the learned Commissioner has been challenged on the grounds set forth in memo of appeal.

2. Brief facts of the case are that the tax department reported that the registered person has claimed input tax on



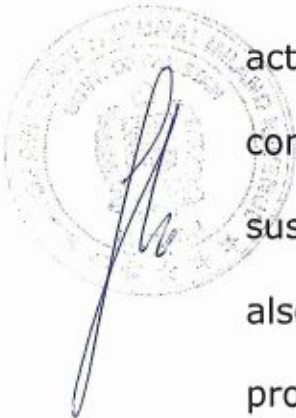
fake HS code and fake and flying invoices. Moreover, physical verification of the business premises of the registered person was conducted and reported that no such business activity in the name of M/s. MZ Trading and Enterprises is being carried out at the given address. It rendered the registration of appellant liable to be suspended / blacklisted. On the basis of these facts, the registration of the appellant was Suspended vide impugned order in terms of section 21(2) of the Act, read with Rule 12(b) of the Sales Tax Rules, 2006.

3. Mr. Muhammad Imran Ghazi, Advocate alongwith Mr. Muhammad Naseer-ud-Deen Hamayoun, Advocate appeared on behalf of the appellant/registered person and Mr. Zahid Mahmood, learned CIR, Multan Zone, RTO, Multan appeared on court call along with Mr. Haroon Rasheed, DR represented the tax department.



4. The learned AR contended that the suspension/blacklisting order did not reflect any reasons as required under section 21 of the Act, 1990 and in rule 12 of the Rules 2006, which was in depravity to 24A of the General Clauses Act, 1897. The learned AR further argued that upon careful examination of the suspension/blacklisting order, it is evident that the suspension/blacklisting was carried out without any legally recognized evidence of tax fraud or tax evasion as stipulated in Section 21 of the Ordinance, 2001. The learned AR further asserted that the appellant was not granted an opportunity for a hearing, and even the suspension/blacklisting order was not

served upon the appellant. In pursuance to our order dated 01.04.2024, the learned commissioner Inland Revenue appeared and submitted that the suspension/blacklisting was carried out on the directives issued by the Federal Board of Revenue. According to the learned commissioner, the registered person was involved in the activities covered under the provision outlined in section 21 of the Act, 1990, which led him to suspend/blacklist the registration of the appellant. When asked whether the reasons for suspension/blacklisting, as outlined in Section 21 and Rule 12 of the Sales Tax Rules 2006 (**the Rules 2006**), were clearly communicated, the learned Commissioner failed to provide any satisfactory explanation. The learned CIR asserted that the tax department had substantial evidence implicating the appellant in tax evasion activities; however, the said pieces of evidence could not be confronted to the appellant through the notice during the suspension/blacklisting proceedings. The learned commissioner also argued that the appellant opted not to join the proceedings, therefore, there was no alternative but to proceed with the suspension/blacklisting based on the information available to the tax authorities.



5. We have given due consideration to the arguments of the parties and perused the record of the appeal file. In order to comprehend the issue involved in this case, it is deemed necessary to reproduce the operative part of the suspension/blacklisting order, which reads as follows:

"The Chief Commissioner IR, Regional Tax Office, Multan reported vide letter No. 6367 dated 08- 03-2024 that M/S MZ TRADING AND ENTERPRISES bearing NTN: 6272617-4 & STRN: 3277876324250 has claimed/adjusted huge amount of input tax. Further analysis shows that

1. HS Code of supplies does not match with purchases.
2. As per profile, the registered person has not declared any warehouse facility to maintain/ hold huge stock.

Moreover, physical verification of the business premises of registered person was conducted and the team reported that no any business activity with the name and style of M/S MZ TRADING AND ENTERPRISES is being carried out at the given address and the registered address is fake.

The above mentioned facts and circumstances attract the provisions of rule 12 of the Sales Tax Rules, 2006. Therefore, M/S MZ TRADING AND ENTERPRISES was called upon to show cause u/s 21 (2) of the Sales Tax Act, 1990 read with Rule-12(a)(i) (A) & 12(a)(i) (C) of the Sales Tax Rules, 2006, as to why the respondent may not be suspended since the date of registration.

Hearing was fixed but on the given date, neither anyone appeared nor any written reply was received from the respondents. This act on the part of respondents shows that they have nothing to say in their defense.

Therefore, in exercise of power conferred u/s 21(2) of the Sales Tax Act, 1990 read with rule 12(a)(i)(A) & 12(a)(1) (C) of the Sales Tax Rules, 2006, the registration status of M/S MZ TRADING AND ENTERPRISES bearing NTN: 6272617-4 & STRN: 3277876324250 is hereby SUSPENDED since the date of registration, till further order."



6. From the above, it is evident that the suspension/blacklisting was carried out based on the assertion that the registered person mentioned incorrect HS Code of supplied and purchases in its returns, thereby raising suspicion regarding the business activity of the registered person. As per the suspension order, the registered person was involved in abnormal business activity, thereby declaring incorrect HS code

in the returns and non-declaring the warehouse to maintain stock. It is further alleged that the appellant was not available at declared address. However, the order does not show that when was the verification of business premises of the appellant was carried out. As against the appellant asserted the the appellant is doing the business at its declared address. It is to be noted that mismatch of HS Code and non-declaring of warehouse does not covered under the provision contained in section 21 of the Act, 1990 to proceed for Suspension/Blacklisting. The tax authority should have first establish the the registered person was involved in fraud based on legally possible evidence. Further, it is also to be noted that every short payment/non-payment could not be the reason for suspension, unless the element of tax fraud is proved. The tax authority should communicate the reasons through a notice outlined in section 21 of the Act, 1990 and rule 12 of rules, 2006 before suspending the registered person. Any suspension outside the scope of stipulations provided under section 21 of the Act, 1990 would be unjustified. In essence, the assertion by the tax department underscores a critical need for clarity and coherence in the criteria used to evaluate businesses' compliance with tax regulations. Without a robust and transparent framework, there is a risk of arbitrary actions that could unfairly penalize law-abiding businesses and erode trust in the tax system. The suspension order neglected to emphasize clear and unambiguous evidence of tax evasion or fraud;



instead, the suspension/blacklisting was done solely on the presumption that the input tax claimed by the registered person stemmed from fake invoices. This approach contradicts established principles of legal jurisprudence. The suspension order does not indicate the invoices that have been declared as fake through the order passed by the competent authority. Further, it is to be noted that unless a proceeding under section 11 of the Act, 1990 is conducted, the aspect of admissibility of input tax cannot be determined. In this case, no proceeding under section 11 of the Act, 1990 has been conducted; rather the registered person was suspended based on presumption and this occurred without confronting the material/evidence upon which the appellant's suspension was based. When this situation was brought to the attention of the learned Commissioner, he acknowledged that the basis for suspension should have been confronted to the appellant. The learned Commissioner undertakes to restore the appellant's registration and any fresh necessary proceedings shall be conducted in strict accordance with the law and procedure provided under the Act, 1990.



7. In view of the foregoing circumstances, the registration of the appellant is directed to be restored forthwith. However, the tax authorities may proceed fresh based on the material and evidence sufficient for the suspension of the registration, as stipulated in section 21 of the Act, 1990. It is also mandated that the tax authorities must initially ascertain whether the

