

Taxhelpline Case No. 114 of 2013

INLAND REVENUE APPELLATE TRIBUNAL

MA(R) STA No.39/IB/2012 Date of Hearing 06.11.2012

Mr. Munsif Khan Minhas, Judicial Member and Mr. Ikramullah Ghauri, Accountant Member

Applicant by Mr. Nazeer Ahmed, Assessee. Respondent by Mr. Zia Ullah Khan, DR

**M/s. General Business Promoters, Rawalpindi. Applicant
Vs
CIR(A), RTO, Rawalpindi. Respondent**

JUDGMENT

1. This miscellaneous application for rectification has been filed by the Registered Person against the order dated 12.6.2012 in STA No. 101/IB/2012. Learned AR states that at the time of making business transactions with the supplier by the applicant, the supplier was not declared as blacklisted or any, and were having an OPERATIVE/ACTIVE status as per FBR web portal. However the case was selected for Audit. The applicant was called upon to show cause notice, and the assessing, officer disallowed the input Tax of Rs. 186,087/- vide ONO-no. 32 dated 18.6.2011. Being aggrieved the applicant filed an appeal before CIR which was also passed against the applicant for the above mentioned amount.

2. Aggrieved by the order in appeal, the applicant filed an appeal before this honourable ATIR. The Tribunal dismissed the appeal with the following remarks:-

"The appellant challenged the CIR (A) against holding Rs. 186,067/-recoverable because it was stated the invoices of M/s BK International were genuine at the time of transaction and he was not black listed. Further he said that the total recoverable amount

consisted of many invoices which were below the threshold of Rs.50,000/- and according to the law these were not to be routed through bank channel.

Be that as it may, we raised the question that the even if law provided that banking channel may not be used there has to be record of supply and transactions which should be presented for verification because even small amounts had to be entered into books of accounts and cannot be omitted. The appellant did not produce any document to the affect. Hence, in view of the fact that he had no documentary proof in support of the claim, it is decided that action of the learned Commissioner (Appeals) is fair and justified and we declined in interfere in the same. The appellant's appeal is dismissed accordingly."

Learned AR argues that the order of ATIR is not based on the facts of the case due to the following reason.

That the status of the supplier of the Applicant was "Blocked" as per online verification system retrieved from FBR web port, and on the basis of "Blocked" status, the CIR appeal has already given relief and decided the case in favour of the applicant.

3. We have heard the arguments and perused the record. Assessee states that B. K. International supplier of the appellant was neither inactive nor blocked/blacklisted. In this scenario learned CIR (A) has already given relief. So it is discrimination. Input is being allowed in case where supplier is neither inactive blocked/blacklisted while in this case input is disallowed by saying that Registered person could not produce record for verification of genuineness of transaction. Assessee could not produce record before Tribunal at the time of arguments. Even otherwise verification of such record is ordinarily made at the level of Officer Inland Revenue. Law does not warrant discrimination. Hence in this scenario we deem it appropriate to modify the Tribunal's order dated 12.6.2012 by setting aside the impugned order and remanding the case to OIR to scrutinize the record of the appellant and pass appropriate order in accordance with law after providing an opportunity of being heard. Order

accordingly.

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