

## **Taxhelpline Case No. 124 of 2013**

### **[INLAND REVENUE APPELLATE TRIBUNAL]**

**STA NO.1251/LB/2012, M.A. (Stay) No.85/LB/2013, Date of hearing : 01-02-2013**

**(CH. MUNIR SADIQ), JUDICIAL MEMBER, (SOHAIL AFZAL),  
ACCOUNTANT MEMBER**

**Appellant by : Mr. Muhammad Farooq Sheikh Advocate.**

**Respondent by : Mrs. Nabeela Iqbal DR**

**M/s Taj Packrite Pvt. Ltd. Lahore ...Appellant**

**Vs**

**CIR Zone-II RTO Lahore...Respondent**

ORDER---This order shall dispose of the titled appeal and miscellaneous application for grant of stay filed by the registered person against order C. No J-1715 dated 16-11-2012 passed by the Commissioner Inland Revenue Zone-III. Lahore.

2. Brief facts of the case as stated by the CIR in his order u/s 21(2) are that the appellant, a private limited company, was involved in adjustment of input tax on the strength of invoices issued by the persons whose sales tax registrations have been blacklisted. Thus it was held that the registered person was involved in overstating the entitlement to tax credit by way of illegal adjustment of input tax on account of invoices issued by the blacklisted suppliers which fall within the meaning of tax fraud as defined under section 2(37) of the Sales Tax Act. 1990. As a result the registration of appellant was suspended to avoid further loss of revenue. The appellant being aggrieved with the above said order has come up in further appeal.

3. Learned AR has submitted that date of suspension of registration of the registered person is 16-11-2012 He submitted that according to Rule 37 as amended vide sales tax general order No.35/2012 dated 30-6-2012 the Commissioner was obliged to issue show cause

notice through registered post or courier service within seven days of the issuance of suspension order of the registered person but the letter was issued on 26-11-2012. However, to cover the lacuna the show cause notice was antedated 23-11-2012. He therefore, submitted that the show cause notice and suspension order be declared void ab initio When confronted with the situation, learned DR could not rebut the fact regarding dispatch of show cause notice on 26-11-2012. However, she asserted that in fact show cause notice was signed on 23-11-2012. However due to official formalities, it was dispatched on 26-11-2012. When learned DR was confronted with Rule 38 as substituted by Sales Tax General Order No 35/2012 mentioned supra, she submitted that the Department shall withdraw the order of suspension as well as show cause notice and if need be shall initiate and complete the exercise de nova strictly in accordance with law

4. Keeping in view the facts and circumstances of the case, the appeal is accepted and order of suspension C. No.J-1715 dated 16-11-2012 as well as show cause notice dated 23-11-2012 are declared to be void ab initio However the Department shall be at liberty, if need be to complete the legal exercise as indicated by learned DR

5. Since the main appeal has been disposed of therefore, miscellaneous application No.85/LB/2013 has become infructuous and is accordingly dismissed.

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