

Taxhelpline Case No. 125 of 2013

[INLAND REVENUE APPELLATE TRIBUNAL]

STA No.132/LB/2013, Date of hearing : 04.03.2013. Date of order: 05.03.2013

(NAZIR AHMAD), JUDICIAL MEMBER (MIAN MASOOD AHMAD), ACCOUNTANT MEMBER

Appellant by : Mr. Naeem Munawar, Adv. Respondent by: Ms. Fauzia Fakhar, DR

**M/s. Tahir Asad Industries(Pvt) Ltd, Lahore. ...Appellant
Vs**

The CIR, RTO, Faisalabad.... Respondent

ORDER---The appellant-taxpayer has knocked at our doors feeling aggrieved of the appellate order dated 14.01.2013 recorded by the learned CIR(A), Lahore.

Facts of the case lie in a narrow compass. During the course of audit proceedings for the period August 2009 to February 2012, the audit team observed that the appellant had

adjusted all the out put tax against the input tax statedly in violation of section 8B of the Sales Tax Act, 1990 (the Act). Later on, the Revenue authorities, having discovered that all the alleged amounts had been paid in subsequent months, were satisfied with imposition of default surcharge amounting to Rs.369,862/- and penalty of Rs.84,426/-. The learned first appellate authority has held that in the instant case, since the amount to be deposited under said section 8B was deposited in subsequent months as confirmed by the department, no loss of government revenue was involved. Accordingly, the penalty of Rs.84,426/- was deleted, however, default surcharge was maintained.

The learned counsel for the appellant, opening his case, refers to the

assessment order dated 04-10-2012 and particularly to its page Nos.4, 5 and 6 to establish that it has been paying tax much more than the tax required to be paid as such in terms of said section 8B. The learned counsel placed reliance upon the ratio settled in the case cited as 2007 PTD 2286 where at the end of the day it was held that even if there is some irregularity involved in the light of CBR's instructions, the same is condoned being a procedural lapse as no revenue loss is involved. The learned DR, on the other hand, supports the impugned orders for the reasons recorded therein.

Having heard the learned representative of the two parties, we are persuaded to allow the appeal since no substantial loss of revenue appears to have been caused by the appellant. Therefore, default surcharge amounting to Rs.369,862/- is hereby deleted.

Consequently appeal filed by the appellant succeeds.

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