

Taxhelpline Case No. 128 of 2013

[INLAND REVENUE APPELLATE TRIBUNAL MR. IKRAM ACCOUNTANT MEMBER]

**Appellant By: Mr. Saeed Hassan Khan, ITP. Respondent By:
Mr. Naveed Hassan, DR**

**M/s. Team sun Technology Pakistan (Private)
Limited---Appellant
Vs
Commissioner Inland Revenue, RTO,
Islamabad---Respondent**

ORDER---The appellant has filed appeal before this Tribunal against Order-in-Appeal No. ST-311/2011 dated 19.06.2012 passed by Commissioner Inland Revenue (Appeals-II), Islamabad on the following grounds:

1. That order in appeal No. 311 of 2011 dated 19.06.2012 is bad in law and against the facts of the case.
2. That Commissioner Inland Revenue (Appeals) is not justified to confirm the order in original No.36/2011 dated 19.06.2012.
3. That order in original having been passed by Assistant Commissioner is liable to be canceled as under SRO 55591/1996. Assistant Commissioner is not authorized to adjudicate cases involving amount of Sales Tax upto 500,000 only.
4. That even otherwise allegedly hearing was fixed on 13.05.2011 whereas order has been passed on 31.05.2011 which is not maintainable under the law.
5. That demand of sales tax is liable to be deleted as so called definite information regarding charging of sales tax was not provided to the appellant.

6. That order in original and order in appeal are liable to be vacated as the ACIR has failed to mention/confront the tax period.
7. That order in original is liable to be cancelled as the ACIR passed the order on the basis of income tax record which is not permissible under the law.
8. That order in original is liable to be cancelled as the ACIR passed order without providing opportunity of being heard to the appellant.
9. That sales tax amounting to Rs. 2,900,525/- has wrongly been charged and has wrongly been confirmed by the CIR (A) which is liable to be deleted.
10. That proceedings had wrongly been initiated hence order in original has wrongly been confirmed by the CIR (A) which is liable to be cancelled.
11. That order-in-original No.36/2011 dated 31.05.2011 passed by Assistant Commissioner Inland Revenue is without jurisdiction, hence liable to be cancelled.
12. That order in original confronting penalty default surcharge is against the law as no willful default has been committed by the appellant.
2. Brief facts of the case are that during desk audit the ACIR noting difference in sales declared in the sales tax/income tax returns, the ACIR confronted the issue to the registered person who failed to substantiate the issue alongwith any documentary evidence, therefore the ACIR passed order in original for the recovery of principal amount alongwith default surcharge and penalty.
3. The hearing was held on 07.03.2012, the learned AR stated that he was condemned un-heard by the Assessing Officer as well as the learned CIR (A). He took along with him the audited accounts and

the reconciliation statement explaining the difference in the sales tax and the income tax returns, however, his point of view was not heard. In view of the learned AR's contention the learned DR suggested remand of the case to the Assessing Officer.

4. We have heard both the parties to the case, we think that the learned AR needs to be given an opportunity of explaining the difference between the cost of sales given in the sale tax and income tax returns. Therefore, the case is remanded for reconciliation of accounts and re-adjudication based on the appellant's explanation.

5. The appeal is disposed of accordingly. This order consists (02) pages and each page bears my signature.

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