

Taxhelpline Case No. 140 of 2013

[INLAND REVENUE APPELLATE TRIBUNAL]

**M/s. Rehan CAN Private Ltd.,
199-A, Model Town, Lahore. Appellant
Vs.
Commissioner of Inland Revenue, Zone-VII, RTO,
Lahore. Respondent**

This sales tax appeal has been filed by a registered person against an order-in-appeal of the learned CIR(A-II), Lahore recorded on 18/04/2013.

Brief facts giving rise to this appeal are that during the audit, it was observed that the registered person adjusted all the output tax against the input tax paid which was not in accordance with law. He was required to deposit 10% output tax into the government treasury under section 8B(1) of the Sales Tax Act, 1990. The Assistant Commissioner Inland Revenue issued a show cause notice requiring the registered person to explain as to why evaded sales tax amounting to Rs.32,08,596/- alongwith default surcharge in terms of section 34 should not be recovered beside penal action. The ACIR issued various notices which were not complied with. The registered person was also required to file certain details alongwith material evidence such as qualitative and value-wise raw material inventory record for the period of under consideration showing category wise opening balance etc. but he did not comply with. On the final due date i.e. 26.09.2012, neither the registered person appeared before the ACIR nor he filed any application for adjournment. Under these circumstances, the ACIR charged sales tax at Rs. 32,08,596/- alongwith penalty at Rs. 96,258/- under section 33 of the Sales Tax Act, 1990. The matter was agitated before the CIR(A) where the contention of the learned authorized representative of the registered person that its case is excluded from the purview of section 8B(1) was not found tenable. He was of the view that as per SRO 647(I)/2007, in put tax against raw material consumed should have exceeded 50% of the total raw

material of that tax period. He, therefore, upheld the order of the ACIR. Being aggrieved with the order of the CIR(A), the registered person has come up in appeal before the Tribunal.

3. The learned authorized representative and the learned departmental representative have been heard.

4. Before the Tribunal, the learned authorized representative of the registered person contended that the orders passed by the authorities below are arbitrary, injudicious, punitive, whimsical and otherwise not maintainable in law. He further pleaded that show cause notice as well as reminder issued by the ACIR were not received as the same were sent to incorrect address. He also stated that the learned ACIR had failed to ascertain the factual as well as legal position of the case. He was of the view that the learned CIR(A) has also disposed of the appeal in a summary manner by confirming the action of the ACIR is not understandable.

5. The learned departmental representative, on the other hand, defended the orders of the authorities below. He vehemently contended that the registered person has failed to appear before the ACIR.

6. The orders of the authorities below have been perused in the light of arguments of both the parties. Under these circumstances, we find it appropriate to vacate the orders of both the authorities below for re-adjudication of the matter by the ACIR so that the things are put on the right track. The registered person is strictly directed to furnish full details and supporting documents as required by the ACIR. The ACIR is also directed to give proper opportunity of being heard to the registered person and proceed in accordance with law which is near to justice.

7. The appeal stands disposed of as above.

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