

IN THE APPELLATE TRIBUNAL INLAND REVENUE, LAHORE BENCH,
LAHORE

MA (R) No.98/LB/2023

In

STA No.2258/LB2022

M/s. Petrofast Pvt, Ltd., Lahore.

Applicant

Versus

CIR, CTO, Lahore.

Respondent

Appellant by : Mr. Farhan Ahmad Jan, Advocate.

Respondent by : Mr. M. Imran, D.R.

Date of hearing : 15.03.2023

Date of order : 15.03.2023

ORDER

Sajjad Asghar Khokhar, (Judicial Member):- The taxpayer in the instant miscellaneous application seeks recall/rectification of the ATIR order dated 15.02.2023 passed in STA No. 2258/LB/2022. The applicant seeks rectification on the following ground:-

- (i) That the learned CIR-Appeals-II, Lahore was not justified to confirm the impugned sales tax demand of Rs. 1,498,718/- on account of input tax claimed against the exempt supplies for the tax year 2021 which was already disallowed by the appellant vide Sales Tax Returns for the month of July 2021, amounting to Rs. 829,222/- December 2021, Rs. 56,267/- and May 2022 Rs. 627,877/- respectively. Hence, recovery of impugned sales tax amount would tantamount jeopardy of Double Taxation which is against the fundamental right of appellant guaranteed under Article 13 of Constitution of Pakistan, 1973.

2. That the above, constitutes a mistake apparent from the appellate order of 15.02.2023 that merits rectification of the subject order by this Hon'ble forum in terms of the provisions of section 57 of the Sales Tax Act, 1990.

3. It is submitted that the registered person's appeal was decided by this Tribunal vide order dated 15.02.2023 without adjudicating the ground of appeal No. 02 of the appeal memo. Principal sales tax amount of Rs. 1,498,718/- for the tax year 2021 was already disallowed in subsequent tax



periods, therefore, there was no sales tax was recoverable/payable from the registered person. This amounts to a mistake apparent on the face of the earlier order which needs to be rectified u/s 57 of the Sales Tax Act, 1990.

4. We have perused the arguments of the both sides and perused the available record, including our earlier order sought to be rectified. During the course of original appeal proceedings, the learned AR taken the stance that the input tax claimed on exempt supplies amounting to Rs.1,498,718/- for the tax year 2021 was voluntarily disallowed by the registered person vide sales tax returns submitted during tax periods of May 2021, July 2021 & December 2021 thus leaving on principal amount of sales tax recoverable from the registered person, therefore no loss of Government revenue was involved in the instant appeal. Reliance is placed on 1998 PTD (Trib) 3866 and 2017 PTD 2227. Rectification of order, in fact, is a process whereby something is wrongly omitted, entered or without considering the issues/grounds as per law.



5. In view of what has been discussed above, we hold that this tantamount to a mistake apparent from the record which is hereby rectified by resorting to the provisions of section 57 of the Sales Tax Act, 1990. Consequently, the present rectification application is accepted and our earlier order dated 15.02.2023 is rectified to the extent that the matter is remanded back to the assessing officer for verification of disallowed input tax credit of Rs. 1,498,718/-.

6. For what has been stated above, the instant sales tax appeal is allowed in the manner indicated above.

Sdl-
(MUHAMMAD JAMIL BHATTI)
Accountant Member

Sdl-
(SAJJAD ASGHAR KHOKHAR)
Judicial Member