

APPELLATE TRIBUNAL INLAND REVENUE OF PAKISTAN
KARACHI BENCH KARACHI

Present: Mr. Muhammad Jawed Zakaria, J.M.
Mr. Faheemul Haq Khan, A.M

M.A. (Recall) No. 206 of 2016
U/r. 20 (3) ATIR Rules 2010

In STA No. 183/KB/.2016
(Tax Period July 2013 to June-2014)
U/s. 11(2) & (4)

M/s. AL-Khair Processing,
Karachi..... Applicant

V e r s u s

The Commissioner Inland Revenue,
(I.I. & P)Zone-I, RTO, Karachi Respondent

Represented by:

Appellant : **Mr. Amanat Ali, Advocate**
Respondent : **Dr. Naveed-ul- Hassan, D.R.**

Date of Hearing : **30.08.2016**
Date of Order : **30.08.2016**

ORDER

MUHAMMAD JAWAID ZAKARIA, Judicial Member:-

Through this Miscellaneous Application the Taxpayer has requested to recall our order recorded in **STA No. 183/KB 2016 dated 16.08.2016.**

2. The learned counsel for the Applicant submitted that the absence of the Applicant was neither deliberate nor willful but due to traffic jam. He submitted that on the date of hearing he stuck in the traffic jam for about two hours on the way at Shahrah-e-faisal to Tribunal and when reached

the Tribunal it was informed that the Court had discharged just five minutes before his arrival. He further assured that the Applicant is ready and willing to pursue his case. Accordingly, he prayed that the order of the Tribunal may be recalled in order to meet the ends of justice.

3. The learned D.R. on the other hand strongly opposed the submissions of the learned counsel. He submitted that no body appeared on behalf of the Appellant/Taxpayer despite proper/valid service of notice/summon, therefore, the same had rightly been dismissed under Rule 22 of the Appellate Tribunal Inland Revenue Rules, 2010. He accordingly prayed for dismissal of the Application.

4. We have heard both the learned representatives and have perused the order of the Tribunal as well as record of the case. From perusal of the Diary Sheet it is evident that the case was fixed for hearing so many times but it was adjourned. The first hearing was fixed on 04.05.2016, but adjourned to date in office. Again hearing was fixed on 23-05-016 but adjourned to 26.05.2016 on the request of the counsel of the appellant. On 26-05-2016 the case was adjourned to 16.6.2016. on 16.06.2016 this time case was adjourned to date in office on the request of the learned DR,. The case was again fixed for hearing on 19.7.2016 and

adjourned to date in office on the verbal request of the Appellant. On the last date of hearing i.e. 16.8.2016, none appeared on behalf of the taxpayer despite proper service of notice. The case was called thrice and we had provided another opportunity by keeping file a side but till the discharge of the Board neither any counsel or Appellate appeared nor submitted any adjournment Application. However, considering the request of the Applicant, that he stuck in the traffic jam and could not attend the proceedings and keeping in view the well established principle of law "*Audi Alteram Partem*", we deem appropriate to recall our order dated 16-08-2016. The appeal is therefore, restored in its original number. The Roster Section is directed to fix the appeal before any division bench. We may further direct the taxpayer to be more vigilant, punctual and cautious while pursuing the case, and attend the proceedings without seeking any adjournment an no adjournment shall be allowed by the Tribunal.

5. The Application is hereby allowed.

(MUHAMAMD JAWAID ZAKARIA)
JUDICIAL MEMBER

(FAHEEMUL HAQ KHAN)
ACCOUNTANT MEMBER

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