

BALUCHISTAN SALES TAX ON SERVICES

APPELLATE TRIBUNAL, QUETTA

MA (stay) 07/2025

STA 36/2025

M/S National Logistics Corporation

Versus

The Commissioner (Operations) & one another, Baluchistan Revenue Authority, Quetta

ORDER

Date of last hearing: 03.11.2025

Date of issue: 13.11.2025

Appellant by:

Sajid Mehmood ITP

Respondent by:

Barrister Wasil Jan

JUSTICE (R) NAZIR AHMED LANGOVE, CHAIRPERSON:

This is an appeal filed by the appellant against the order in original dated 30th April, 2025 passed by the Learned Commissioner III (Operations) where in the appellant has been declared as defaulter of Baluchistan Sales Tax (BSTS) amounting RS 7,435,532/- on Services.

2. Facts in brief are that M/S National Logistic Cell (Registered Person) having BNTN 9013102-9 is registered with Baluchistan Revenue Authority (The Authority) with principal activity of providing multi model means of transport including road, train, sea and air; operating as an extension of the ministry of planning.
3. The respondent alleged that after going through the available record, it transpired that the appellant has claimed inadmissible tax in excess of 15%;

found short paid Balochistan Sales Tax on Services (BSTS) Amounting to RS 7,435,532/-

4. As a result, the Respondent issued a notice to the registered person U/S 24(1) of the Act for recovery of due amount short paid; which reads as under:

"Where on the basis of any information acquired during an audit, inquiry, inspection or otherwise an officer of the Authority ¹[not below the rank of Assistant Commissioner] is of the opinion that a registered person has not paid the tax due on taxable services provided by him or has made short payment, the officer shall make an assessment of the tax actually payable by the person and shall impose a penalty and charge default surcharge in accordance with section 48 and 49.

²[(1A) Notwithstanding anything contained in this Act and subject to such conditions and guidelines as may be prescribed by the Authority in this regard, where a registered person fails to file the return for a tax period by the due date or where the registered person fails to furnish any information, explanation, documents, record or any other details as may be required in a notice issued under this section or sections 33, 34 or 57 an officer of the Authority, not below the rank of an Assistant Commissioner, shall, based on any available information or material, make an assessment order, to the best of his judgment, determining the minimum tax liability of such registered person of the tax period specified in the notice. The minimum tax liability shall be in addition to the penalty and default surcharge in accordance with sections 48 and 49.]"

5. In response the registered person sought time; which reportedly was granted for as many as 12 times; but not availed, such a trend, can not be encouraged and appreciated, at least to say.

6. It has also come on record that the above referred notices were properly served upon the Registered person provided U/S 80(1) of the Act with the following language:

“Subject to this Act, any notice, order or requisition required to be served on an individual for the purposes of this Act shall be treated as properly served on the individual if:--

(a) personally served on the individual or, in the case of an individual under a legal disability the agent of the individual;

¹[(aa)sent electronically through e-mail or to the e-folder maintained for the purposes of e-filing of returns by the registered person;]

(b) send by registered post or courier service to the individual's usual or last known address in Pakistan; or

(c) served on the individual in the manner prescribed for service of a summon under the Code of Civil Procedure, 1908 (V of 1908).”

7. However, the Registered person did not bother to appear and answer the questions raised.
8. Hence the order in original dated 30-04-2025 passed by the Learned Commissioner (Operations) III.
9. Assailed before us, inter alia amongst the following grounds.

I. That the Order-in-Original No. Input/100/2024-25 dated 30 April 2025 [the ‘Impugned Order’] passed by the Commissioner (Operations-III) Balochistan Revenue Authority, Quetta [the learned Commissioner] in the case of National Logistics Corporation [the “Appellant”] for the period from July 2018 to June 2019 (Tax Year 2019) under Balochistan Sales Tax on Services Act, 2015 [the “BSTS Act, 2015”] is bad in law and against the facts and circumstances of the case and thereby illegal, null and void.

II. That the learned Commissioner framed the Impugned Order based on assumptions, conjectures and surmises, proceeding in a summary manner primarily for alleged non-provision of documentary evidence.

III. That the learned Commissioner erred in law framing the impugned Order on *ex parte* basis, condemning the appellant unheard. The Appellant was not afforded sufficient opportunity to present its case or provide relevant explanations, resulting in an arbitrary and speculative demand against the Appellant.

IV. That the learned Commissioner erred in law by not granting the Appellant an opportunity for a personal hearing before finalizing the Impugned Order, in violation of mandatory procedural requirements.

Without prejudice to the Ground of appeal above

V. That the learned Commissioner failed to issue a valid and proper show-cause notice before passing the Impugned Order, thereby depriving the Appellant of its fundamental right to respond and defend its position, in violation of the principles of natural justice.

VI. That the learned Commissioner acted unlawfully by not invoking Section 16B of the BSTS Act, 2015, while initiating the proceedings, thereby rendering the entire process defective and unsustainable in the eyes of law.

VII. That the learned Commissioner failed substantiate to the basis of his notice as well as subsequent order as laid down in section 24(1) of the BSTS Act.

VIII. That the learned Commissioner erred law in raising the sales tax demand through the Impugned Order, retrospectively applying the section 16B of the BSTS Act from the 01 July 2018 despite the fact that

proceedings; in such circumstances the Learned Commissioner had no option but to proceed with the matter accordingly.

14. It is relevant to note here that Section 16B of the Act was properly applied, wherein it has clearly been mentioned that in various cases Input Tax credit is not allowed. The instant case also falls within the domain and definition mentioned above.
15. Contrary to that the appellant claimed adjustment of input Tax in excess of 15% which is not only contrary to the section but beyond the comprehension of a man of prudent mind, for the simple reason that after declaring output Tax at the rate of 15% How a person can claim input tax in excess of 15%, such a claim itself does not appeal to reason.
16. Now coming to the facility of Portal. Usually, online portal does not permit a claim of input Tax beyond the system or thresholds restricting the excess claim of input Tax: even if the appellant's stance is believed it does not replace the fundamental concept and above all threshold available in the provisions of the "Act". If any feature or information of the online Portal is found contradictory to the Balochistan Sales Tax on Services Act 2015 or its Rules then the Act and Rules prevail, in such scenario the Portal's conflicting part is deemed void and ineffective to the extent of repugnancy; ideally the appellant should have brought the difference into the notice of Commissioner concerned, as we know that legally no evasive claim is allowed, but he acted otherwise by using it as a tool for adjusting inadmissible input Tax, which was not Justified, because Fiscal Justice is also the Paramount duty of every individual and entity; expected to be observed in future with a sense of ownership and responsibility.
17. Another important aspect, i.e.; imposing penalty and surcharge in the order in original which too in a stereotype manner by the Commissioner

the amendments was introduced through the BSTS Act, 2019, which came into effect on 15 January 2019.

IX. That the learned Commissioner failed to understand that the Balochistan Revenue Authority's online portal does not permit the claim of input tax beyond the system-imposed thresholds, restricting the excess claim of input tax. Hence, the findings of the learned Commissioner are unjustified.

10. He lastly prayed for setting-aside the impugned order passed by the Learned Commissioner (Operations) III.
11. On the other hand the learned counsel for the Respondent strongly opposed the appeal and supported the impugned order with the contention that the order passed by the Commissioner (Operations) III is based on real facts and relevant law provisions, no illegality or irregularity has been committed by the lower forum warranting interference by this Tribunal; He added that the Learned Commissioner provided a proper opportunity of hearing and leading evidence to the appellant but not availed allegedly with the intention to gain time and linger on the matter with one pretext or the other. While summing up, he prayed for dismissal of the appeal.
12. We have heard the learned counsel for the parties and gone through the record with care and caution.
13. A careful perusal of the record shows that the order impugned rendered by the Learned Commissioner is not based on assumptions or presumptions; despite service of notice U/S 80₍₁₎ of the Act, availing proper opportunity of hearing, the appellant failed to produce requisite record showing that he has falsely been show caused U/S 80₍₂₎ of the Act, followed by the proceedings and the order impugned, for the reasons that after service of notice and appearance of the appellant's representative there was no occasion for the appellant to raise lame excuse of *Ex-Parte*

was improper because no penalty or surcharge could be imposed without adopting due Course or Pre-requisites for imposing Penalty (Section 48 of the Act) and surcharge (Section 49 of the Act). Prima facie the ingredients Sine qua non for application of the sections above were missing, for instance; mens rea, willful default, establishment of an offence with proven non observance, specific violation and above all independent adjudication of the afore mentioned sections. More importantly there should be a clarity with respect to distinction between Tax liability and Penal liability, which is missing. Plus including Tax Period before amendment Jan 15, 2019, not permissible under the Law in the matter under consideration; but went unattended by the Learned Commissioner which in our perception caused miscarriage of Justice to that extent.

18. In view of the above, the appeal filed by the appellant is dismissed. However, including Tax Period before amendment dated Jan 15, 2019 prospective in nature; not effective retrospectively and imposing default and surcharge under section 48 and 49 of the Act respectively are declared as illegal.
19. With the above modification and excluding the amount reconciled during the pendency of this appeal, the appeal filed by the appellant is otherwise dismissed.
20. Orders accordingly.

__SD__

Chairperson

__SD__

Member

Dated: 13 November, 2025