

BALUCHISTAN SALES TAX ON SERVICES
APPELLATE TRIBUNAL, QUETTA

MA (stay) 30/2025

STA 64/2025

Attock Cement Pakistan Limited

Versus

The Commissioner (Operations)-II, Balochistan Revenue Authority, Quetta

ORDER

Date of last hearing: 08.12.2025

Date of issue: 12.12.2025

Appellant by:

Kazi Zeeshan Akbar (FCA), Syed Masud-Ul-Hassan (ACCA) & Mohammed Moazzam (BA, LLB), Advocate

Respondent by:

Barrister Wasil Jan & Mr. Amin Ullah, Advocate

DOSTAIN KHAN JAMALDINI, MEMBER: Through this order we intend to decide the titled stay application and sales tax appeal, which have been filed by the appellant against the order-in-original (the impugned order) No. BSTS/HUB/130/2024-25 dated 30-06-2025 passed by the Commissioner (Operations)-II, the Balochistan Revenue Authority (BRA), Quetta (respondent) u/s 14(3), 19(1) & 52(6) r/w sections 48 & 49 of Balochistan Sales Tax on Services Act (the Act), and the show cause notice (the impugned notice) issued on 23-12-2024 by the Additional Commissioner, the BRA, Quetta (respondent No. 2) u/s 52(6) r/w sections 14(3), 48 & 49 of the Act.

2. Brief facts of the case are that the appellant is registered with the BRA having BNTN: B0709778-6 as a withholding agent. The impugned order states that the assessing officer (respondent) upon perusal of record available with the BRA has found that during 2018-19 the appellant-registered person had short withheld/paid BSTS amounting Rs. 324,955,217/- against services availed. During the adjudication and after a thorough evaluation of submitted documents and discussion/clarifications, the respondent held that the appellant has made short payment of

BSTS by non-withholding/short-withholding Rs. 190,630,542/- that is recoverable under the law. It has been stated that complete documents could not be provided despite allowing the registered person sufficient time and opportunity. Consequently, the appellant approached this Tribunal impugning the order passed by the learned Commissioner-II by way of the application and the main appeal.

3. During the first hearing, the MA-30/2025 was allowed and the respondent was directed not to initiate any recovery action against the appellant. Also, both the parties were allowed to submit written arguments. During subsequent hearings, the appellant submitted written legal arguments stating that sub-6 of section 52 has been inserted through Finance Act 2019 effective from 01-7-2019, therefore, the recovery of withheld BSTS cannot be made retrospectively. He also submitted certain facts of the case, in addition to the main appeal, opining that the impugned order carries misreading and misapplication of the Act and miscalculations. The learned counsel from respondent side argued that the impugned order carries neither misreadings nor misapplications of the Act. However, regarding head-wise/expense-wise BSTS payables, both the parties agreed for reworking and reconciliation in order to attain the actual payable withholdings. The learned counsel for appellant, however, held that the retrospective recovery is unlawful as declared by the courts. He cited judgments reported as PLD 1997 SC 582¹ and 2024 PTD 342².

4. Both the parties were allowed sufficient time to reconcile. Finally, they came with a joint report signed by the learned AR of the appellant and the learned Commissioner-II, BRA (respondent), with the following conclusion:

" In light of the above submission, certain new facts have emerged that warrant thorough examination and recalculation. The Authorized Representative of the Company, requested your Honour to kindly remand the case for further scrutiny of the documents presented during the reconciliation process. This step will ensure that all relevant facts and figures are accurately considered in the interest of justice and fairness. The department has no objection if the said case is remanded back for proceedings as per law. "

¹ Supreme Court of Pakistan in Elahi Cotton Mills Ltd versus Federation of Pakistan.

² High Court of Balochistan in M/S Noor-ul-Haq versus Government of Balochistan.

5. We are with considered view that this case needs re-examination by the lower forum, therefore, u/s 68 (4)(b) we remand the case to learned Commissioner-II for making a fresh assessment as per provisions of the law. The appellant is directed to provide complete documents as required for carrying out an accurate reassessment. He is also expected to deposit the reconciled/agreed dues as a good will gesture even without waiting for a fresh assessment order. The reassessment should be made within 60 days of the issue of this order. Appeal is disposed-of accordingly.

___SD___

Chairperson

___SD___

Member

___SD___

Member

Dated: 15 December, 2025.