BALOCHISTAN SALES TAX ON SERVICES
APPELLATE TRIBUNAL, QUETTA

MA (stay) 01/2025

STA 33/2025

M/S Zia Ul Haq and Sons Private Limited

Versus

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

ORDER

Date of hearing: 15.12.2025 Date of order: 22.12.2025

Appellant by: Mr. Ahsan Iqbal, ITP

Respondent by: Mr. Amin Ullah Khan, Adv

JUSTICE (R) NAZIR AHMED LANGOVE, CHAIRPERSON:

This is an appeal filed by the Appellant against the order in original dated 18th April, 2025 passed by the Learned Commissioner II (Operations) where in the Appellant has been declared as defaulter of Balochistan Sales Tax (BSTS) amounting RS 7,827,492/- on Services.

2. Facts of the case are that the Appellant is a Private limited company provides catering allied services, registered with the Balochistan Revenue Authority vide BNTN; B 3673207-9 under the tariff heading 9801.55 of the Balochistan Sales Tax on Services Act, 2015.

3. The Appellant (Registered Person) allegedly claimed inadmissible input tax which according to the Respondent was not allowed under Section 16B of the Act, and relevant provisions of the rules 26(2) & 27 (8)(9)(10) of the Balochistan Sales Tax on Services Rules 2018. With the following Language of the Act: -

Section "16B. Input Tax Credit Not Allowed.

(j) goods or services used or consumed in a service liable to sales tax at ad valorem rate lesser than fifteen per cent or at specific rate or fixed rate or at such other rates not based on value;

(k) goods or services as are liable to sales tax, whether a federal sales tax or a provincial sales tax, at specific rate or at fixed rate or at such other rates not based on value or at a rate lesser than fifteen per cent ad valorem and are used or consumed as inputs in the provision of a taxable service under the Act:

(l) the amount of sales tax paid on the telecommunication services in excess of nineteen and a half per cent ad valorem and the amount of sales tax paid on other taxable goods or services in excess of fifteen per cent ad valorem [1][:]

[2][Provided that in case of telecommunication services paying sales tax at a rate not less than nineteen and a half per cent ad valorem, the amount of sales tax paid on goods and services at ad valorem rates not exceeding eighteen per cent, can be claimed by the person providing the taxable telecommunication services.]"

AND

Rule 26(2) and 27(8)(9)(10) of the Balochistan Sales Tax on Services Rules, 2018 which reads as under:

"26. Determination of input tax.

(2) Input tax paid on goods and services used in providing or rendering of non-taxable or exempt services, or the services liable to reduce rate of tax or specific rate of tax where incidence of tax in adval terms is less

than the incidence of tax on the standard rate or on the services provided or rendered outside Balochistan shall not be admissible.

27. Input tax credit not allowed.

(8) The amount of sales tax paid in excess of 15 per cent on the taxable goods as are used or consumed in providing of a taxable service.

(9) Goods and services used or consumed for providing a service liable to tax at a reduced rate or to a specific rate of tax where incidence of tax in adval terms is less than the incidence of tax on the standard rate.

(10) Services liable to a reduced rate of tax or to a specific rate of tax where incidence of tax in adval terms is less than the incidence of tax on the standard rate when used for providing or rendering of any service."

4. On the basis of above the Respondent issued a show cause notice to the registered person U/S 24(2) of the Act for recovery of tax short paid which reads as under:

"24. Assessment of Tax.

(2) No order under sub-section (1) [1][or (1A)] shall be made unless a notice to show cause is given to the person in default within [2][eight] year from the conclusion of the tax period to which the assessment relates specifying the [3][grounds] on which it is intended to proceed against him and the said officer shall take into consideration the representation made by such person and provide him with an opportunity of being heard if the person so desires."

5. The registered person failed to comply with the notice so issued. Hence the proceedings after following due course and order dated

18th April, 2025 passed by the Learned Commissioner II Balochistan Revenue Authority.

6. Feeling aggrieved and dissatisfied the appellant filed the instant appeal inter alia amongst the following grounds:

"1. That the allegations levied in the impugned Assessment Order is against the facts of the case because the respondent erred by assuming that the appellant has claimed inadmissible input tax of Rs. 7,454,755/- for the Tax period of July 2022 to June 2023.

2. That the respondent did not provide a proper opportunity of hearing to the appellant and passed an order in haste violating the principles of natural justice. Nor provided him any details of the invoices on the basis of which the Appellant's claim was declined.

3. That the penalty and default surcharge imposed was illegal as no mens rea was established against the appellant, therefore the impugned order is not sustainable under the law and is liable to be set side.

7. On the other hand, the Respondent's Learned Counsel strongly opposed the appeal with the contention that the order impugned passed by the Learned Commissioner is based on appreciation of available record and evidence contained therein. No misreading or non-reading of the evidence in the light of relevant provisions of the law is available to the Appellant therefore the appeal being meritless is liable to be dismissed. He added that proper opportunity of hearing and leading evidence was afforded to the appellant but he miserably failed to avail the same, therefore allegation of providing no opportunity of hearing is also groundless and making a lame excuse to linger on the matter with no valid grounds. He urged that the Appellant wrongly claimed

inadmissible input tax adjustments contrary to the Section 16B of the Act. Properly served with a show cause notice to justify excess input tax claim but he failed to reply; followed by various reminders but in vain, therefore the Learned Commissioner had no option but to decide the matter on merits. he prayed for dismissal of the appeal.

8. We have heard the Learned Counsel for the parties and gone through the record with their assistance which reveals that the Appellant claimed excessive inadmissible input tax on services which U/S 16B(i)(j) of the Act is clearly inadmissible because a tax payer provides services taxable at a rate of 15% cannot claim excessive adjustments on inputs. The Section ibid specifies cases where a registered person (Tax Payer) cannot claim or adjust input tax that exceeds the standard rate i.e.; 15% meaning thereby the provision prevents over-claiming of input tax beyond the rate Taxed or Paid by the Tax Payer.

9. In addition to above, such a claim is otherwise illogical and beyond the comprehension of a man of prudent mind, rightly declined by the lower forum with valid and cogent reasons, therefore the order Qua the excessive input claim is not open to any interference.

10. It has been observed that while making assessment or adjudication upon the matter neither the Authority nor the lower forum committed any illegality or irregularity nor violated the principles of equity, due process of law or observance of relevant law provisions, therefore the order impugned rendered by the Learned Commissioner warrants no interference.

11. During the course of arguments, when the Appellant's Learned Counsel was confronted with the legal proportion with respect to excessive claim he candidly conceded that the Appellant's inadmissible excessive input claim was perhaps inadvertent, he therefore did not press his claim to that extent; whereas rest of the input claimed by the Appellant is subject to verification through valid invoices which in our perception needs a thorough probe with due care and caution therefore with the consent of the parties we are inclined to remand the matter to the Learned Commissioner II Balochistan Revenue Authority with the directions to proceed with the matter to the extent of verification of invoices and claim therein permissible under the law by providing a fair opportunity of hearing and leading evidence to the parties and decide the matter purely on merit within a shortest possible period but not more than two months.

12. With the above the appeal stands disposed-of.

13. Orders accordingly.

___SD___

Chairperson

___SD___

Member

___SD___

Member

Dated: 22 December, 2025