BALOCHISTAN SALES TAX ON SERVICES

APPELLATE TRIBUNAL, QUETTA

STA 88/2026

M/S China Power Hub Generation Company Pvt. Ltd.

Versus

The Commissioner (Operations), Balochistan Revenue Authority, Quetta

ORDER

Date of last hearing: 08.06.2026 Date of issue: 15.06.2026

Appellant by: Mr. Muhammed Asadullah Khan, ITP & Others

Respondent by: Mr. Amin Ullah Khan, Advocate

DOSTAIN KHAN JAMALDINI, MEMBER:

The Appellant is a private limited company operating a 2×660 MW coal-fired power plant at Hub, Balochistan. It is registered with the Balochistan Revenue Authority (BRA) under Balochistan Sales Tax on Services Act, 2015 (the Act). Previously registered as a "Withholding Agent," it changed its status to "Service Provider" on 21 December 2023 as informed by the Respondent and acceded by the Appellant during the hearings.

2. The Respondent issued a show-cause notice dated 21 October 2025 under section 24(2) of the Act for the tax period July 2023 to June 2024, alleging short payment of Balochistan Sales Tax on Services (BSTS) of Rs. 711,084,190. After multiple hearings, due to a perceived lack of systematic documentation linking individual invoices to specific withholding tax deposits, the Respondent passed the OIO on March 4, 2026, confirming the principal tax liability of Rs. 711,084,190/- plus a 5% penalty of Rs. 35,554,209/- under Section 48, and statutory default surcharge under Section 49.

3. Aggrieved, the Appellant filed the instant appeal under section 67 of BSTSA. During pendency, the Tribunal directed reconciliation of facts, pursuant to which the Respondent submitted a Reconciliation Report and the Appellant filed a Rebuttal.

4. **SUBMISSIONS OF THE APPELLANT:** The Appellant contends:

i. That, the order under section 24 is without jurisdiction because the alleged tax relates to services received by the Appellant (as recipient) and not to taxable services supplied by it. Relying on Balochistan High Court *2024 PTD 342*, Sindh High Court *2021 PTD 484*, and Lahore High Court *Sales Tax Reference No. 06 of 2025*, the Appellant argues that assessment under section 24 cannot be made against a service recipient.

ii. That, the show-cause notice was defective – lacking definite evidence and not appreciating the Appellant's submissions made through his letter KST-AA-1194 dated 20.11.2025.

iii. The tax was already discharged under Reverse Charge Mechanism (RCM) via withholding statements for earlier periods (Aug 2022 – March 2023), and the same liability cannot be demanded again.

iv. The Respondent wrongly connected a notice dated 13 January 2026 (for July 2022 – June 2025) with the period July 2023 – June 2024.

v. That, the later allegation of "self-invoicing and input tax adjustment" (Rs. 208,984,311) was never confronted during the original proceedings – it appears only in the Reconciliation Report. Hence, it violates natural justice.

vi. That, there is no loss of revenue because the corresponding federal input tax claim (if any) does not affect BSTS liability. The Appellant never claimed input tax in its BRA returns; the disputed invoices were declared only for FBR reporting purposes under RCM.

5. **SUBMISSIONS OF THE RESPONDENT:** Aside the impugned OIO, the Respondent (through the Reconciliation Report) argues:

i. That, he Appellant, while a Withholding Agent, deposited tax for periods prior to July 2023. For the impugned period (July 2023 – June 2024), the Appellant failed to properly correlate withholding statements with specific invoices and made fragmented payments without clear linkage.

ii. That, after changing status to "Service Provider", the Appellant generated self-invoices in February/March 2024 (totalling Rs. 620,725,703) and claimed input tax adjustment of Rs. 208,984,311 in its federal (FBR) sales tax returns. This is illegal and not permitted under the Act and/or the Withholding Rules.

iii. That, additionally, unsettled withholding liability of Rs. 4,667,803 remains unpaid.

iv. Thus, total recoverable amount is Rs. 213,652,114 (Rs. 208,984,311 + Rs. 4,667,803)—not the original Rs. 711 million.

6. **TRIBUNAL'S ANALYSIS:** We heard both the parties in detail, considered the case file, thoroughly examined additional documents/reports submitted by the parties, and took guidance from the law and referred case laws.

A. Jurisdiction under Section 24 of the Act: Section 24(1) of Act empowers the Commissioner to assess tax not paid or short paid by a registered person. However, the settled legal position across provincial sales tax laws is that section 24 (or its equivalent) is meant **for assessing tax on taxable services supplied** by a registered person, **not for recovering withholding tax from a service recipient** unless specific provisions exist. The Balochistan High Court in *2024 PTD 342* (relied upon by Appellant) has held that proceedings under section 24 against a mere recipient of services—without any allegation that the recipient himself supplied taxable services—are without jurisdiction. The

Sindh High Court in *2021 PTD 484* and the Lahore High Court in *Sales Tax Reference No. 06 of 2025* have reiterated the same principle. In the present case, the original show-cause notice and the impugned order are founded on the allegation that the Appellant procured services and failed to pay tax as withholding agent. The Respondent **did not allege that the Appellant supplied any taxable services** during July 2023 – June 2024 (except for the self-invoicing issue raised later). Thus, the Respondent's shift from a withholding tax inquiry to an assessment of a federal input tax claim under Section 24 is procedurally flawed and bad in law.

Therefore, the entire proceeding under section 24 is without lawful jurisdiction and is hereby declared void ab initio.

B. Violation of Natural Justice: Even assuming jurisdiction existed, the Respondent violated settled principal of *audi alteram partem*:

- The original demand of Rs. 711,084,190 was based on non-payment of BSTS on procured services.
- During the appeal, the Respondent introduced a completely new case while submitting the reconciliation report—that the Appellant illegally claimed input tax adjustment of Rs. 208,984,311 in FBR returns through self-invoicing. This new allegation was never part of the show-cause notice or the original order.
- The Appellant was never given an opportunity to respond to the allegations, in totality, before the Order-in-Original was passed. On 11-02-2026 the Respondent while submitting some documents sought time till 27-02-2026 for submission of remaining documents. No time was allowed and the impugned order was issued on 134th day of the instituting this adjudication despite the fact that sufficient statutory time-period was available at the discretion of the learned Commissioner (Ops) to make a complete assessment under the law. Further, during the current proceedings the Respondent submitted new allegation, which was not part of the SCN and impugned OIO. Bringing it first in

the Reconciliation Report by the Respondent (and replied by Appellant in the Rebuttal) does not cure the defect.

The principle *audi alteram partem* is fundamental. Any demand based on a ground not contained in the show-cause notice is legally unsustainable.

C. Merits of the Self-Invoicing Allegation: Even on merits, the Respondent's argument is flawed:

- The Appellant never claimed input tax adjustment in its BSTS returns filed with BRA. The self-invoices and the input tax claim were made in federal sales tax returns under the Sales Tax Act, 1990 (FBR). Whether such claim is admissible under federal law is a matter for the FBR, not BRA.
- The Act does not provide for disallowing input tax claimed in another jurisdiction (federal) as a ground for raising BSTS demand. The Respondent has not cited any provision in the Act that permits BRA to recover tax merely because a person claimed input tax in FBR.
- The alleged duplication—that is, the Appellant claiming to have paid tax under RCM while the service provider also paid tax—was not established with any concrete evidence. The Reconciliation Report admits that certain amounts appear to reconcile in aggregate, and only Rs. 4,667,803 remains genuinely unsettled—a far cry from the original Rs. 711 million.

D. The Unsettled Withholding Amount (Rs. 4,667,803: The Tribunal notes that even the Respondent's Reconciliation Report reduces the claim dramatically from Rs. 711 million to Rs. 213 million (self-invoicing part) + Rs. 4.66 million (unpaid withholding). However, the unpaid withholding of Rs. 4,667,803 relates to invoices from three service providers (having BNTNs B4567756, B5357877 & B2943843) for periods in 2023 and 2024. The Appellant has not convincingly denied this specific unpaid amount. Nevertheless, because the entire proceeding under section 52(6) is without jurisdiction and the Appellant was not given proper notice on this precise

amount (the notice and order were for Rs. 711 million, not Rs. 4.66 million), the Tribunal cannot uphold even this reduced demand in the present proceeding. The proper course for the Respondent, if it wishes to recover the outstanding Rs. 4,667,803, is to initiate fresh proceedings under the correct legal provisions (e.g., section 52(6) read with the Withholding Rules) after issuing a proper show-cause notice specifying the exact invoices and periods, and after granting a full hearing.

E. Penalty and Default Surcharge: Since the principal tax demand itself is set aside for lack of jurisdiction and violation of natural justice, the penalty under section 48 (5%) and default surcharge under section 49 cannot survive.

7. **CONCLUSION & ORDER** For the reasons stated above, this Tribunal holds that:

a) The Order-in-Original No. 03/2026 dated 4 March 2026 passed by the Commissioner (Operations), BRA, Quetta, is without lawful jurisdiction and in violation of natural justice. The same is hereby declared void ab initio and set aside.
b) The demand of principal tax (Rs. 711,084,190), penalty (Rs. 35,554,209), and any default surcharge under section 49 of BSTSA is annulled.
c) The provincial demand of Rs. 208,984,311/- raised in the Reconciliation Report under Section 24 of the BSTSA is struck down due to lack of provincial jurisdiction over federal adjustments. However, the BRA retains the right to share its reconciliation findings with the Federal Board of Revenue (FBR) so the federal authorities can review the validity of those input tax credits under the Sales Tax Act, 1990.
d) The Respondent is not precluded from initiating fresh proceedings, if otherwise permissible under law, for any genuine unpaid withholding tax (including the sum of Rs. 4,667,803 identified in the Reconciliation Report) after serving a proper show-cause notice, providing all relevant

evidence, and affording a reasonable opportunity of hearing to the Appellant. However, no such fresh proceeding shall be based on the allegations of "self-invoicing for input tax adjustment in FBR" as that does not constitute a recoverable amount under the Act.

e) The appeal is allowed in above terms with no cost.

__SD__

Chairman

__SD__

Member-I

__SD__

Member-II

Dated: 15th June, 2026

Note:

- A copy of this order shall be sent to Chairman, Balochistan Revenue Authority (BRA) for his perusal and further action.