BALOCHISTAN SALES TAX ON SERVICES APPELLATE TRIBUNAL, QUETTA

STA 91/2026

M/S Emirate Security Services

Versus

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

ORDER

Date of hearing: 27.07.2026	Date of order: 28.07.2026
Appellant by:	Mr. Junaid Saleem, Adv
Respondent by:	Mr. Amin Ullah Khan, Adv

JUSTICE (R) NAZIR AHMED LANGOVE, CHAIRPERSON:

Facts in brief are that the appellant filed the instant appeal against the order in original dated 12-03-2024 passed by the Learned Commissioner (Operations) wherein the appellant was held responsible to pay short paid sales tax amounting RS: 2,235,424/- with penalty U/S 48 of the Act @ of 5% amounting RS: 111,771/- total recoverable amount RS: 2,347,198/- with the averments that the appellant is a private limited company, registered with Balochistan Revenue Authority under tariff heading 9818.1000 (services provided or rendered by specialized agencies), in the instant case by the appellant security agency.

2. The appellant rendered services to Wateen Telecom Limited; however, failed to make payment of the Balochistan Sales Tax on Services amounting to RS: 2,235,424/- into Government treasury.

3. On the basis of above, the respondent Authority issued a notice to the appellant (registered person) U/S 52(1) of the Act which provides the mechanism for recovery of tax not levied or short-levied by inadvertence, error or for any other reason; so, the person is liable to pay such amount of the tax or charge shall be served with a notice within a specified period i.e. within eight years from the end of the financial year to which the current tax period relates, vide, notice dated 10th November, 2023 by providing opportunity of hearing to the tax payer on 27th November, 2023, followed by reminders dated 22nd December, 2023 and 29th January, 2024, however, the appellant did not bother to appear or reply the notice.

(a) Reportedly, notices issued as mandatory U/S 80(1) of the Act were properly served upon the appellant (tax payer), however, with no response. Hence the order in original dated 12th March, 2024 passed by the Learned Commissioner Operations.

4. It is mainly contended by the appellant that the respondent did not provide a proper opportunity of hearing guaranteed under Article 10A of The Constitution of Pakistan 1973 plus basic requirement provided under the law and circulars issued by the Central Board of Revenue Government of Pakistan and FBR wherein 15 days' notice before any adverse action should have been observed. He next contended that the assessment has been made on the basis of assumptions and presumptions which is not permissible under the law. He relied upon a reported judgment (PTCL 2012, CL210) wherein it has been held that nobody can be made liable to pay tax on the basis of presumption, intendment except based on explicit provisions of law. He maintained that it is a well settled principle of law that matters should be decided on merits and not on technicalities, additionally, no litigant should suffer for an administrative lapse. He urged that the order in original has been passed in violation of Section 52(1) of the Act which provides recovery of the tax not levied or short levied wherein service of notice is mandatory within a specified period but

the impugned notice was issued after an inordinate delay of 6 years, 4 months and 22 days although after amendment through Finance Act, 2023 the period was enhanced from 5 years to 8 years but the appellant's case was before the amendment as mentioned above. He next contended that the respondent Authority solely relied on third party data which too on assumptions, making grounds, based on invoices pertaining to tax year 2015-2016 which otherwise was illegal because tax liability is required to be determined for a specific tax year cannot be clubbed or attributed to another tax year but this important legal aspect of the matter was ignored by the assessing officer which ultimately caused miscarriage of justice. He prayed for acceptance of the appeal and setting aside the order in original rendered by the Learned Commissioner Operations.

5. On the other hand, the learned counsel for the respondent opposed the appeal with the contention that the order in original passed by the Learned Commissioner is based on valid legal and factual grounds, after evaluating the record available to him, he added that notice followed by reminders was properly issued and served upon the appellant (tax payer) as provided in Section 80(1) of the Act by affording ample opportunity of hearing to the appellant, but deliberately not availed for the reasons best known to him, in such circumstances the Learned Commissioner had no option but to decide the matter on merits on the basis of available record. He prayed for dismissal of the appeal.

6. We have heard the learned counsel for the parties and gone through the record with their assistance reflecting that the appellant (tax payer) is a registered person with Balochistan Revenue Authority under tariff 9818.1000, deals with the services provided by specialized agencies i.e. security agency in the matter under consideration having BNTN 2521855-7 provided services to Wateen Telecom Limited but allegedly failed to make payment of Balochistan Sales Tax on Services amounting RS: 2,235,424/- into the Government treasury, hence the issuance of notices, reminders and initiation of proceedings which culminated into the order impugned dated 12th March, 2024 rendered by the Learned Commissioner Operations. It is observed with grave concern that various documents annexed with

the appeal were ineligible, the appellant's learned counsel was directed to provide fresh and readable copies (which has subsequently been provided).

7. So far, the issue of limitation is concerned, delay caused while issuing the first notice 10th November, 2023 was prima facie barred by time; when the respondent's learned counsel was confronted with this legal preposition, he felt difficulty to answer the same.

8. Admittedly, the appellant (registered person) was required to charge Balochistan Sales Tax on Services against the services provided U/S 3 r/w Section 7, 10 and second schedule of the Act and the Rules thereunder with the language of taxable services (Section 3 of the Act), its value including all the Federal and the Provincial duties, taxes (Section 7 of the Act) and scope of tax and allied matters provided U/S 10 of the Act.

9. Similarly, M/S Wateen Telecom Limited being a withholding agent had to withhold one-fifth of the BSTS amount against the appellant's services and payback four-fifth of the BSTS to the appellant and the latter (appellant) was required to pay the same U/S 18 of the Act wherein time, manner and mode of payment has been mentioned in detail with the corresponding Section 35 of the Act which deals with the returns with the binding effect that every registered person shall furnish returns to a true, correct and properly filled up return to the Authority in the form notified indicating the tax due and paid during a tax period which in our view point was not fulfilled by the appellant (tax payer).

10. Keeping aside the merits and demerits of the case, today when the appeal was fixed for hearing, the appellant's learned counsel stated at bar that as per the record and valid documents, liability against the appellant has already been discharged. Candidly conceded by the respondent's learned counsel, although half-heartedly. Meaning thereby the actual sales tax has been paid accordingly and nothing is left to be determined and decided by this Tribunal.

11. In such view of the facts, the appeal filed by the appellant is allowed, consequently, the impugned order-in-original dated: 12-03-2024 passed by the Learned Commissioner (Operations) is hereby set-aside, leaving the parties to bear their respective costs.

12. Orders Accordingly.

__SD__

Chairman

__SD__

Member

__SD__

Member

Dated: 28th July, 2026