

THE BALOCHISTAN SALES TAX ON SERVICES
APPELLATE TRIBUNAL QUETTA.

Sales Tax Appeal No.26 & 27 of 2025
M/s Ittefaq Building Solutions (Pvt) Limited,
Lahore.
versus
Commissioner III Balochistan Revenue Authority Quetta.

ORDER

Respondents by: Mr. Barrister Wasil Jan

Appellants by: Mr. Muhammad Muneeb, FCMA)

Date of hearing: 18/08/2025

Date of Order: 26/08/25

JUSTICE (R) NAZEER AHMED LANGOVE, CHAIRMAN. The above titled Sales Tax Appeals have been filed by the appellant calling in question, the orders in original No.87/2024-25 and No.86/2024-25 both dated 21.03.2025, passed by the learned Commissioner III ('Commissioner') of the Balochistan Revenue Authority ('BRA'), Quetta under section 52(3) of the Balochistan Sales Tax on Services Act, 2015 ('Act') for tax periods related to 1st July 2021 to 30 June, 2022 and 1st July 2021 to 30 June, 2023 respectively wherein the appellant has been required to pay Balochistan Sales Tax on Services ('BSTS') amounting to Rs.4,706,317 and Rs.2,321,676 on account of claim of input tax adjustment in

excess of 15 percent. Since the facts and legal issues involved are identical hence we are disposing both the appeals through this order.

2. The relevant facts for disposal of instant appeal are that the appellant having BNTN: B7186024 is registered with the BRA under tariff heading 9824.0000 and engaged in construction of buildings and civil works projects all over Pakistan. On the basis of record available with the BRA the Commissioner observed that the appellant has claimed input tax adjustment in excess of 15% which is inadmissible in terms of section 16B sub-section (1) clauses (j) and (k) of the Act and Rules 26(2) and 27(8), (9) and (10) of the Balochistan Sales Tax Rules, 2018 ('Rules'). The Commissioner accordingly issued show-cause notice followed by reminders. In response the appellant contended that input tax has been claimed on account of purchases of construction material on which sales tax on goods has been paid at the rate of 18% hence the appellant is entitled to claim the same. The Commissioner however rejected contention of the appellant and passed orders in original. The appellant, being aggrieved with the said order filed appeal before this forum in terms of section 60 sub-section (2) of the Act with grounds as per memo of appeal.

3. On behalf of the appellant, case was argued by Mr. Muhammad Muneeb, FCMA) who contested the impugned orders on the ground that appellant being engaged in construction of buildings and civil works projects all over Pakistan make purchases of goods and construction materials on which sales tax has been

deducted at more than 15% hence the appellant is entitled to claim said input tax against output tax paid to the BRA. The learned counsel contended that disallowing input tax adjustment for which genuine sales tax invoices are available is against the fundamental principles and spirit of sales tax law. The learned counsel prayed for vacating orders in original.

4. Mr. Barrister Wasil Jan learned counsel appearing on behalf of respondent supported the order of the learned Commissioner and stated that the appellant being a service provider was entitled to claim input tax adjustment upto 15% only in terms of section 16B sub-section (1) clauses (j) and (k) of the Act and Rules 26(2) and 27(8), (9) and (10) of the Rules. Since the appellant has claimed input tax adjustment in excess of 15%, therefore, the learned commissioner was justified to pass impugned order for recovery of BSTS on account of inadmissible input tax adjustment. Summing up his arguments the learned counsel prayed for dismissal of appeal.

5. We have gone through the first impugned orders of the commissioner, relevant provisions of the Act and Rules of the appellant and considered arguments of both the counsels. Before deciding the issue, we deem it appropriate to reproduce the provisions of section 16B sub-section (1) Clauses (j), (k) and (l) which read as follows:

“16B. Input Tax Credit Not Allowed.—(1) Notwithstanding anything contained in this Act, a registered person shall not be entitled to claim, reclaim, adjust or deduct input tax in relation to:

(a) -----

(b) -----

(c)

.....

(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 at fixed rate or such other rates not based on values;

(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 such other rates not based on value or at 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;

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 seventeen percent, can be claimed by the person providing the taxable communication services.

(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 percent ad valorem;"

6. In the light of above provisions, the scheme of input tax adjustment under the Act is such that the rate of output tax paid to BRA will decide the fate of input adjustment against output tax. If output tax is paid to BRA at 15% then input tax is allowable subject to restrictions of sections 16, 16A, 16B and 16C of the Act. If the rate of output tax paid to BRA is less than 15% then no input tax is adjustable. If the rate of input tax paid to BRA is more than 15% like it is 19.50% in case of telecommunication service providers then if input tax pertains to another telecommunication entity, then upto 17% input tax is allowable to be adjusted and if input pertains to other than telecommunication entities then input tax adjustment is allowable upto 15%. This is with a logical reason i.e. the BRA generally receives output tax on services provided at 15%, therefore, any input tax claimed over 15% would mean the BRA is paying more input tax to a registered person than the registered person has paid output tax to the BRA. There are two exceptions to this general rule, firstly in case of output tax exceeding 15% the input tax is allowed at 17% (as in the case of telecommunication service recipients and service providers) and secondly the service providers paying output tax less than 15% are barred from claiming any input tax adjustment altogether.

7. In the light of above discussion, since the appellant has admittedly paid output tax to BRA @15% and claimed input tax adjustment in excess of 15% hence we find no reasons to interfere. The impugned orders of the learned commissioner are upheld and the appeals filed stand dismissed.

8. The appeal stands disposed of accordingly.

Announced
Dated, the 26/28/2025.

— sd —

Chairperson

— sd —

Member

— sd —

Member