THE BALOCHISTAN SALES TAX ON SERVICES APPELLATE TRIBUNAL QUETTA.

Sales Tax Appeal No.52 of 2025
M/s Sufi Logistics (Private) Limited, Lahore.
Versus
Commissioner-III Balochistan Revenue Authority, Quetta.

Appellants by: Ms. Nadia Khalil Adv and MS Mahira Saeed Adv

Respondents by: Mr. Muhammad Kashif Adv

Date of hearing: 01/09/2025

Date of Order

ORDER

JUSTICE (R) NAZEER AHMED LANGOVE, CHAIRMAN. The above titled Sales Tax Appeal has been filed by the appellant/registered person on the grounds set-forth in the memo of appeal calling in question, the orders in original No.Input/1585/2024-25 and No.Input/1586/2024-25 both dated 28-04-2025, passed by the learned Assistant Commissioner ('AC') of the Balochistan Revenue Authority ('BRA'), Quetta which were also confirmed by the learned Commissioner (Appeals) BRA Quetta ('Commissioner') through order-in-appeal Nos.36 and 37 of 2025 dated 03-07-2025.

2. The relevant facts for disposal of instant appeal are that the appellant having BNTN 7404351-6 is registered with the BRA for principal activity as "Domestic transportation or carriage of goods by road, rail, aircraft, ship or

through pipeline or conduit whether in, from or to Balochistan." under tariff heading 9804.1000 under 1st Schedule & 2nd Schedule of the Balochistan Sales Tax on Services Act, 2015 ('Act'). From perusal of record the learned AC observed that the registered person has claimed inadmissible input tax, i. e. in excess of 15% and/or at reduced rate, hence short paid Balochistan Sales Tax on Services (BSTS) amounting to Rs.862,519/- and Rs.485,223/- respectively for tax periods July 2022 to June 2023 and July 2023 to June 2024, into Government Exchequer. The learned AC initiated proceedings for recovery of said amount which ultimately led to passing of impugned orders-in-original under section 52(3) of the Act wherein said amount was held recoverable. The learned AC also recorded his intention to charge penalty and default surcharge under the Act.

3. The appellant, being aggrieved with the impugned orders-in-original passed by the learned AC filed first appeal before the Commissioner under section 63 of the Act. The learned Commissioner vide impugned order-in-appeal confirmed the orders of the learned AC. The appellant, being aggrieved with the impugned order-in-appeal has come up before this forum in terms of section 67 of the Act on grounds set forth in memo of appeal.

4. On behalf of the appellant, arguments were given by Ms. Nadia Khalil Adv and MS Mahira Saeed Adv who contended that the learned Commissioner was not justified to confirm the impugned orders-in-original which were passed on the basis of a single notice and a subsequent reminder which were never properly

served on the appellant. The learned Commissioner did not consider the fact that ample opportunity of being heard was not provided to the appellant hence the impugned orders were passed against the principles of natural justice. The learned counsel also agitated against directions of the Commissioner regarding intended charging of penalty and default surcharge. While concluding her arguments the learned counsel suggested that if the impugned orders-in-original are remanded back to the learned AC, then complete documents will be provided by the appellant and the case will also be explained satisfactorily.

5. Mr. Muhammad Kashif Adv learned counsel appearing on behalf of respondent supported the order-in-appeal of the learned Commissioner upholding the orders-in-original and stated that the appellant did not respond within time therefore the impugned orders-in-original were passed. However, the learned counsel did not object to suggestion of the learned counsel of the appellant regarding remand back of matter to the learned AC.

6. We have gone through the impugned orders of the learned commissioner and the learned AC, examined the relevant provisions of law and considered arguments of both the counsels.

7. Perusal of the impugned orders show that the learned AC has issued only a single notice and subsequent reminder but the learned counsel appearing on behalf of respondent could not establish proper service of notice/reminder. Hence

the impugned order has been passed without following the principles of nature of justice. The learned Commissioner has confirmed the said orders without considering this aspect of the orders passed by the learned AC.

8. In view of the above stated position the impugned orders cannot be allowed to sustain, therefore, with the consent of both the counsels the orders-in-original and order-in-appeal are set-aside and the matter is remanded back to the learned AC with the directions to provide sufficient opportunity of being heard to the appellant, ensure proper service of notices as per section 80 of the Act, examine relevant provisions of the Act, consider documentary evidences and then come up with a well-reasoned, speaking and judicious order, within 30 days of this order. The appellant is also directed to appear before the learned AC, participate in the proceedings, provide all supporting evidences/ explanations and assist the learned Commissioner to come up with a well-reasoned, speaking and judicious order.

___SD___
Chairperson

<u>Announced</u>
Dated, the 4th Sept 2025.

___SD___
Member

___SD___
Member