THE BALOCHISTAN SALES TAX ON SERVICES APPELLATE TRIBUNAL QUETTA.

Sales Tax Appeal No.57 of 2025
M/s Pioneer Cables Limited,
RCD Highway Hub, Balochistan.
Versus
Commissioner-II Balochistan Revenue Authority, Hub.

Appellants by: Mr. Sufiyan Zaman Adv

Respondents by: Mr. Barrister Wasil Jan

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 calling in question, the order-in-original No.HUB/128/2024-2025 dated 30.06.2025, passed by the learned Commissioner II ('Commissioner') of the Balochistan Revenue Authority ('BRA') wherein the appellant has been treated as defaulter of not withholding Balochistan Sales Tax on Services ('BSTS'). In the impugned order the learned Commissioner has determined an amount of Rs.15,891,450 as recoverable and also recorded his intention to imposed penalty and default surcharge under the Balochistan Sales Tax on Services Act, 2015 ('Act').

2. The relevant facts for disposal of instant appeal are that the appellant having BNTN:0711658-6 is registered with the BRA as a "withholding agent" under sub-rule 2 of Rule 1 of the Balochistan Sales Tax Special Procedure (Withholding) Rules, 2018 ('Rules') read with sections 14 and 25 of the Act.

From perusal of record the learned commissioner observed that the appellant has not withheld BSTS. The learned Commissioner initiated proceedings for recovery of said amount and issued show-cause notice followed by reminders. In response the appellant contended that although it's factory is located at RCD Road Hub but it has not provided or received any services in Balochistan hence it is not required to withhold BSTS. The appellant also contended that the tax periods are barred by limitation of time. The learned Commissioner did not agree with said contention on the grounds that the appellant has received services in Balochistan hence liable to withhold sales tax on such services. The proceedings ultimately led to passing of impugned order under section 52(6) of the Act wherein said amount was held recoverable. The learned Commissioner also recorded his intention to charge penalty and default surcharge under the Act.

3. The appellant, being aggrieved with the impugned order passed by the learned Commissioner has come up before this forum in terms of section 60 sub-section (2) of the Act on grounds set forth in memo of appeal.

4. On behalf of the appellant, arguments were given by Mr. Sufiyan Zaman Adv who contended that while passing the impugned order the learned Commissioner has grossly erred to establish liability of Rs.15,891,450 against the appellant on the pretext of non-withholding of BSTS. The learned counsel contended that the impugned order has been passed without considering the nature of payments made by the appellant. He continued to argue that the learned Commissioner has ignored the fact that the appellant is also registered with the Sindh Revenue Board ('SRB') and paying sales tax on service accordingly. The

learned counsel also contended that the appellant is a manufacturer neither providing or receiving services in Balochistan. The learned counsel also challenged the impugned order on various legal and procedural grounds on the basis of provisions of the Act. The learned counsel also argued that the impugned order is hit by limitation as the relevant tax periods were barred by time. The learned counsel also agitated against intended charging of penalty and default surcharge. While concluding his arguments the learned counsel suggested that if the impugned order is set-aside and the matter is remanded back to the learned Commissioner, then complete documents will be provided by the appellant in support of aforesaid contention and all aspects of the case will also be explained satisfactorily.

5. Mr. Barrister Wasil Jan learned counsel appearing on behalf of respondent supported the order of the learned Commissioner and stated that contention of the learned counsel of the appellant against the provisions of the Act and Rules therefore the impugned order was 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 Commissioner.

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

7. Perusal of the impugned order shows that the learned Commissioner has subjected entire heads of expenses without discussing detailed findings on nature thereof. Further, the learned commissioner has not given any conclusive findings

on the payments to SRB. The learned Commissioner has passed impugned order without convincingly rebutting the contention of the appellant.

8. In view of the above stated position the impugned order cannot be allowed to sustain therefore with the consent of both the counsels it is set-aside and the matter is remanded back to the learned Commissioner with the directions to provide sufficient opportunity of being heard to the appellant, ensure proper service of notices, examine relevant provisions of the Act, consider documentary evidences / explanations provided by the appellant 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 Commissioner, participate in the proceedings, provide all documentary evidences/ explanations and assist the learned Commissioner to come up with a well-reasoned, speaking and judicious order.

Announced
Dated, the 04th Sept 2025.

___SD___
Chairperson

___SD___
Member

___SD___
Member