

THE BALOCHISTAN SALES TAX ON SERVICES
APPELLATE TRIBUNAL QUETTA.

Sales Tax Appeal No.62 of 2024
M/s Associated Consulting Engineers ACE Limited,
Karachi.
Versus
Commissioner-III Balochistan Revenue Authority, Quetta.

Appellants by: Mr. Muhammad Muneeb ITP

Respondents by: Mr. Barrister Wasil Jan

Date of hearing: 04/09/2025

Date of Order 23/09/25

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.2922/2024 dated 18.09.2025, passed by the learned Commissioner III ('Commissioner') of the Balochistan Revenue Authority ('BRA') wherein the appellant has been treated as defaulter of not paying Balochistan Sales Tax on Services ('BSTS') on services provided to the Irrigation Department. In the impugned order the learned Commissioner has determined an amount of Rs.4,330,000 as recoverable, imposed penalty of Rs.216,500 and also recorded his intention to impose 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:0709253-7 is registered with the BRA as service provider under tariff heading 9814.2000. On the basis of audit paras, the learned commissioner observed that the appellant has provided services to irrigation department for construction of Tolwar/ Batozai Dam but failed to make payment of BSTS on such services. The learned Commissioner initiated proceedings under section 52(1) of the Act for recovery of said amount and issued show-cause notice followed by reminders. In response the appellant filed detailed reply dated 28-10-2024 and stated that due BSTS has already been paid by the appellant on said services. The appellant also challenged proceedings under section 52(1) on legal ground that information related to audit paras was to be processed under section 24 of Act. The appellant also demanded exact amount of payments/tax disclosed in audit paras. The learned Commissioner did not agree with the contentions of the appellant and proceeded to pass impugned order.

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. Muhammad Muneeb ITP who contended that while passing the impugned order the learned Commissioner has grossly erred to brush aside the explanation/ contention of the appellant. He continued to argue that the learned Commissioner has based his

order only on the audit para without application of judicious mind. The learned counsel also argued that the learned Commissioner has invoked incorrect provision of the act while passing impugned order. 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/ explanations 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 is 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 invoked section 52 of the Act which is applicable when the amount tax recoverable is crystal clear and does not need any further probe. The amount of tax on the basis of audit para not only needed a detailed assessment of tax liable to be paid but also required judicious application of mind by the learned

commissioner to decide whether information obtained from audit para contained any definite default by the appellant or not. Audit The contention of the learned counsel for the appellant is logical that in such a scenario section 24 of the act was invocable instead of section 52 of the act. Further the learned Commissioner has passed impugned order without convincingly rebutting the contention of the appellant in response to show-cause notice.

8. In sale tax law each and every tax period (one month) is unique and separate. Even if 12 tax periods of a financial year are clubbed together the law operates on the basis of tax periods. The learned commissioner has clubbed 12 tax periods of 2019-20 but the information based on audit paras has neither been investigated and analyzed with a judicious mind nor any probe is made from the irrigation department to ascertain tax period wise payments and tax due.

9. In view of the above stated position the impugned order cannot be allowed to sustain as such 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 the learned commissioner to obtain tax period-wise and financial year-wise data of payments and tax leviable from the irrigation department, confront the same to the appellant and then come up with a judicious order for the tax periods related to tax periods of financial year 2019-2020. The learned commissioner is also directed to come up with a judicious, well-reasoned and speaking decision, 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.

10. Before parting we deem it appropriate to state that any information obtained from whatever source including audit para in itself is not an actionable piece of evidence under the act. Such information is first to be analyzed with an investigative but judicious mind. Then it is reconfirmed with the concerned service recipient/provider (as may be the case). Then such reconfirmed information is to be confronted to the defaulting registered person if any violation of the act stands established. After obtaining explanation / documentary evidences from the registered person then the same is to be convincingly rebutted and only then passing of a judicious and speaking order is warranted. We have observed in many appeals that audit paras are blindly treated as a sacred document and an actionable piece of information without any application of judicious mind which results not only in unlawful orders but also cause harassment of the registered persons. Such practice is strongly rejected and concerned officers are directed to discontinue it in future.

Announced
Dated, the 23/07/2025.

__SD__

Chairperson

__SD__

Member

__SD__

Member