BALOCHISTAN SALES TAX ON SERVICES
APPELLATE TRIBUNAL, QUETTA

MA (stay) 104/2025

STA 16/2025

M/S F. Rehman and Co

Versus

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

ORDER

Date of last hearing: 13.10.2025 Date of issue: 20.10.2025

Appellant by: Barrister Gazain Z Magsi

Respondent by: Barrister Wasil Jan

JUSTICE (R) NAZIR AHMED LANGOVE, CHAIRPERSON:

This is an appeal filed by the appellant against the order in original dated 19th February, 2025 passed by the Learned Commissioner III (Operations) where in the appellant has been declared as defaulter of Balochistan Sales Tax (BSTS) amounting RS 6,081,600/- on Services provided to the Bolan Mining Enterprises (BME).

2. Brief facts of the appeal are that the appellant is a registered company and provides services as transporter and customs clearing agent; Bolan Mining Enterprises (BME), a mineral exporter engaged with the appellant for Export of Minerals to Karachi Port and finally to international destinations.

3. After receiving a credible information, in respect of non-payment of Sales Tax on Services; the Balochistan Revenue Authority ('Authority')

through its authorized officer probed into the matter and found that the appellant (a registered person) is liable to pay sales tax on services and has failed to make payment of the Balochistan Sales Tax on Services rendered.

4. In connection thereto the Respondent Authority issued a notice under section 24 (1) of the Balochistan Sales Tax on Services Act, 2015 ('Act') to the appellant for the tax periods July 2019 to June 2020 on September 20th 2024 and afforded him an opportunity of hearing.

5. The appellant contested the respondent's claim on various legal and factual grounds mainly on the point of Jurisdiction; the period of tax claimed; and its status as "non-resident" of Balochistan.

6. But the same was not found satisfactory hence the issuance of show cause notice dated 20th September 2024 was followed by the impugned order dated 19-02-2025 passed by the Learned Commissioner III (Operations).

7. Feeling aggrieved and dissatisfied, the appellant preferred the instant appeal contending therein that the impugned order passed by the Respondent is contrary to law, facts and principles of natural Justice because the Respondent did not provide a fair opportunity of hearing to the appellant, thus violated its fundamental right of fair trial provided under the law and protected by the Constitution of the Islamic Republic of Pakistan, coupled with the non-consideration of relevant record furnished; which ultimately caused miscarriage of justice.

8. Conversely the respondent's representative opposed the appeal on various legal and factual grounds with the contention that the impugned order passed by the respondent is based on appreciation of the relevant record and its thorough probe in the light of relevant law provisions, therefore the appeal filed by the appellant may be dismissed.

9. We have heard the parties at length, gone through the record and relevant law provisions which shows that the appellant is providing services as transporter and as customs clearing agent, is registered with the Authority and has provided services to Bolan Mining Enterprises Khuzdar, Balochistan, exporting minerals internationally. But as per the respondent's stance the appellant failed to make payment of Balochistan Sales Tax on Services ('BSTS') amounting to RS 6,081,600/- hence the initiation of proceedings as mentioned above.

10. During the course of arguments, it has come on record that there are some inherent defects in the impugned order, prima facie affecting the rights and liabilities of the parties; not curable in the appeal.

11. When the Learned Counsel/Representatives of the parties were confronted with this important legal and factual aspect of the matter, they frankly conceded and fairly suggested for remanding back of the case to the lower forum to address all the legal and factual issues as per the record and relevant provisions of the law.

12. At this stage it is important to mention that now it is a well settled principle that non registration does not absolve a service provider of its tax liability, provided the person/ entity is liable to be registered under the Act.

13. Another crucial issue and a fundamental requirement for just and fair decision of a case which mostly lacks is that during the course of assessment and inquiry, the process of verification is must, should not be based on presumptions or even audit reports by some other Department. The respondent's concerned officers should take pains and examine the relevant record with due care and caution by applying their minds independently for another reason also because income tax record does not create sales tax liability against a person unless proved otherwise through specific and valid documents permissible under the law.

14. In view of above, with the consent of the parties, the matter is remanded back to the learned Commissioner III (Operations) with the directions for decision afresh, after affording a fair opportunity of hearing and leading evidence to the appellant.

15. The appellant is directed to appear before the Learned Commissioner and the later to decide the matter purely on merit as per provisions of law within a shortest possible period but not more than one month, and most importantly without being influenced of the earlier judgment or observations, if any, made by this Tribunal.

16. With the above, the appeal stands disposed of.

17. Orders accordingly.

__SD__

Chairperson

__SD__

Member

__SD__

Member

Dated: 20 October, 2025