BALOCHISTAN SALES TAX ON SERVICES APPELLATE TRIBUNAL, QUETTA

STA 115/2026

M/S Gatro Power (Private) Limited

Versus

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

ORDER

Date of hearing: 17.08.2026 Date of order: 31.08.2026

Appellant by: Mr. Abdul Basit, ACCA

Respondent by: Mr. Amin Ullah Khan, Adv

JUSTICE (R) NAZIR AHMED LANGOVE, CHAIRPERSON:

This is an appeal filed by the appellant against the order-in-appeal dated: 29th May, 2026 passed by the Learned Commissioner (Appeals) BRA wherein the appeal filed by the appellant was dismissed and the order passed by the Learned Deputy Commissioner on 08-04-2026 has been modified and maintained by declaring the appellant as defaulter of BWWF amounting to RS: 17,109,591/-.

2. Facts of the case are that the appellant having NTN: 0507439-8 is an industrial establishment as per the relevant clause (h) of Section 2 of the BWWF Act, 2022 as such the respondent Authority is empowered U/S 4 (14) of the BWWF Act to collect Balochistan Worker's Welfare Fund from the appellant, connection

thereto, the appellant was served with a notice U/S 52(1) of the Balochistan Sales Tax on Services Act, 2015 dated: 4th January, 2024 which prescribes recovery of the tax not levied or short-levied by reason of inadvertence, error or any other reason.

3. The appellant was directed to deposit initially an amount of RS: 14,227,920/-; subsequently, revised as RS: 17,109,591/- vide corrigendum dated: 21-04-2025 as Balochistan Worker's Welfare Fund, prescribed U/S 4 (2) of the BWWF, Act @ 2% of the income declared in the income tax return for the financial year 2021-2022.

4. In response, the appellant submitted its reply and confronted the claim through a letter dated: 02-02-2024 mainly on the ground that the appellant is a trans-provincial entity and falls within the jurisdiction of FBR, not recognized separately rather is a unit as part of its parent company i.e. Gatron (Industries) Limited, therefore, is not liable to pay the aforementioned Worker's Welfare Fund as demanded.

5. The respondent Authority found the appellant's response unsatisfactory, therefore, issued a show cause notice U/S 52(1) of the Act read with Section 4(14) of the BWWF Act, 2022 with the directions to deposit the aforesaid revised amount.

6. However, in response the appellant company filed a constitution petition before the Hon'ble Sindh High Court. Reportedly could not obtain any restraining order; Finally, the petition was disposed-of with the directions for implementation of taxes as per the decision of Council of Common Interest (CCI), a constitutional body established under Article 153 of the Constitution of Islamic Republic of Pakistan with the mandate to formulate and regulate policies in relation to specified matters in the federal legislative list and exercising supervision over related institutions.

7. On the basis of above, the respondent once again issued a notice dated: 31st December, 2025 with the same demand earlier made, responded with the same stance. Hence, the order-in-original dated: 8th April, 2026 passed by the Deputy Commissioner Balochistan Revenue Authority.

8. Challenged in appeal U/S 65(1) of the Act before the Learned Commissioner (Appeals) which was modified qua fixation of liability with reference to the total income and its determination based on proportionate formula of the workers employed in the appellant's establishment located in Balochistan vide judgment dated: 29th May, 2026 passed by the Learned Commissioner (Appeals).

9. Feeling aggrieved and dissatisfied of the order impugned, the appellant preferred the instant appeal contending there in that the orders impugned rendered by the fora below are contrary to the law, facts and principles of natural justice for the reasons that initially, the Assistant Commissioner BRA issued a notice dated: 23rd October, 2023 U/S 4 of the BWWF Act, 2022 requiring the appellant to discharge WWF liability. According to the appellant, the notice was responded on legal and factual grounds based on judgments of the superior courts pertaining to CCI. He added that subsequently, the additional Commissioner BRA issued a show cause notice dated: 4th January, 2024 with the same demand; responded by the appellant accordingly, however, another show cause notice dated: 21st April, 2025 was issued by the Commissioner-II BRA with a revised amount i.e. 17,109,591/-. He urged that despite restraining orders passed by the Hon'ble Sindh High Court in respect of trans-provincial entities falling within the federal domain for WWF purposes, the respondent repeated its demand which was illegal and unlawful because the matter under consideration did not fall within its jurisdiction, therefore the orders passed by the Learned Commissioner (Operations) and Commissioner (Appeals) are not sustainable under the law and are liable to be set-aside.

10. On the other hand, the learned counsel for the respondent opposed the appeal with the contention that the orders passed by the fora below are based on correct appreciation of the law, facts, relevant record, income tax returns and following the well-recognized formula of proportionate number of employees working within the respondent's territorial jurisdiction located in Hub, Balochistan. He added that the appellant is not a part of MS Gatron (Industries) Limited for the purpose of the BWWF Act because in the FBR record, it has its separate NTN with separate business activities and different operational establishment, therefore, cannot be treated as a unit of MS Gatron (Industries). He maintained that the appellant's contention regarding trans-provincial entity is also not correct, similarly, the CCI decision was passed during a transitional period. Now, the respective sister provinces

enacted their own Acts and are legally authorized, made before enactment of BWWF Act, 2022 to collect the above-mentioned tax provincially. Therefore, the referred CCI decision cannot be treated in the appellant's favor. Lastly, he prayed for dismissal of the appeal.

11. We have heard the learned counsel for the parties and gone through the record with their assistance showing that the appellant is an entity, separately registered having NTN: 0507439-8 located in Hub, Balochistan within the territorial jurisdiction of respondent.

12. It is important to note that the appellant is separately registered with the FBR with separate NTN and filing independent statement of income tax with FBR, therefore, cannot be treated as part and parcel or a sub-unit of Gatron (Industries) Limited.

13. The appellant's stance is that the entity being trans-province does not fall with the domain of BRA. It is to be noted that Section 4(12) prescribes that in case of a trans-provincial establishment or industrial establishment, the highest office with whatever name, of the establishment or industrial establishment within the premises, or in the province shall be deemed as head office of that establishment or industrial establishment and shall be liable to deposit all the amount due under the Act or prescribed rules, into the head of account, as notified for the purpose by the finance department, Government of Balochistan. However, if an establishment fails to discharge its liability under sub-section (14) of Section 4 of BWWF Act, 2022 dealing with the mode of payment by and recovery from establishments provides that if an establishment or industrial establishment fails to make payment under this section, the amount payable shall be recovered by the Authority in the manner prescribed under the laws of the Balochistan Revenue Authority including but not limited to the Balochistan Sales Tax on Services and rules and regulations or procedures made thereunder and be deposited for the fund in the head of account as notified by the finance department, Government of Balochistan.

14. So far as the CCI decision by the Hon'ble Sindh High court is concerned it was passed during a transition period, after 18th amendment in the Constitution of Pakistan. Now, the rights and obligations of the tax payers and

institutions are very much clear and the workers welfare fund squarely, falls within the domain of respective provinces.

15. As far as the appellant's responsibility with respect to payment of worker's welfare fund working within the territorial jurisdiction of Balochistan is concerned, the appellant was under obligation to make payment by following the recognized principle of proportionate formula.

16. Legally, the Learned Commissioner was bound to decide the case within 120 days, commencing from the issuance of first show cause notice with an additional time period of 60 days, i.e. Total= 180 days. But delayed with no plausible reasons. Detail of notices and replies is as under: -

(i) Notice dated: 23-Oct-2023 to pay BWWF & Provide Misc. Details by Assistant Commissioner.

(ii) Show Cause Notice dated: 04-Jan-2024 by Additional Commissioner.

(iii) Reminder Show Cause Notice dated: 12-Jan-2024 by Additional Commissioner.

(iv) Intimation Letter dated: 08-May-2024 by the Gatro Power (Private) Limited (Appellant) to Assistant Commissioner.

(v) Notice dated: 22-Oct-2024 to pay BWWF by Assistant Commissioner.

(vi) Show Cause Notice dated: 21-Apr-2025 by Commissioner-II.

(vii) Show Cause Notice dated: 31-Dec-2025 by Commissioner-II.

(viii) Show Cause Notice dated: 13-Mar-2026 by Commissioner (Operations).

17. Now, coming to the core issue of limitation which goes to the roots of the matter. Although the matter was pending before the Hon'ble Sindh High Court but the Court never issued any stay order preventing the adjudicating officer from passing a final decision, the officer was legally obligated to conclude the case within 180 days, because once a mandatory, statutory time limit expires without a legally recognized extension, the adjudicating Authority becomes functus officio, mere pendency of a case in higher court without an explicit stay does not automatically stop limitation period for another reason also that statutory time limit is a mandatory

duty, imposed on the officer, not a procedural lacuna that can be ignored or extended in casual manner, even if a tax payer sought adjournments and caused delay, it does not validate an order passed beyond the limitation period, if the statute's maximum time limit was breached.

18. An officer conducting a quasi-judicial proceeding is presumed to know the law, while the order impugned rendered beyond limitation period is the result of gross negligence and sheer ignorance of law, cannot be considered a simple mistake or an error or omission. In fact, proved fatal and vitiated the entire case.

While addressing the issue of limitation, the Hon'ble Supreme Court of Pakistan and the High Courts of the country have consistently held that statutory time lines and limitation period in sales tax cases are mandatory and strictly binding.

The following Landmark Judgments offer valuable legal knowledge, guidance and above all, carry a binding effect.

In a case titled, Pakistan State Oil Company Limited, Karachi versus Additional Collector of Customs, Excise and Sales Tax, Karachi (in civil petition No. 684-K of 2023), the Hon'ble Supreme Court of Pakistan, dilated upon the issue of limitation, the relevant para is as under: -

> *"Thus, the notice was issued more than two and a half years after the transaction sought to be reopened. It is a settled principle that where a statute prescribes a specific period within which fiscal proceedings may be initiated, the revenue authorities are bound by such limitation. The limitation provisions contained in taxing statutes are not mere matters of procedure; they confer substantive protection against reopening concluded transactions after expiry of the prescribed period. Where the legislature has distinguished between cases involving fraud and those involving mere misconstruction of law, the revenue authorities cannot circumvent limitation by labelling a case of legal interpretation as one attracting the more stringent provisions reserved for fraudulent conduct."*

Further held that: -

"In the case of Collector of Customs (Preventive), Karachi5, this Court while dealing with the similar matter, observed that such an inordinate delay cannot be ignored where a specific period of six months has been provided under section 32(3) of the Act and thus the factum of delay being a mandatory requirement of law. We are, therefore, of the view that the learned High Court dealt with the issue of limitation in a slipshod manner and relied upon the said cases which are distinguishable and cannot attract to the controversy involved in the present case. Therefore, in the facts and circumstances of the present case, the impugned order of the High Court is not sustainable in the eye of law.

For the foregoing reasons, this petition is converted into an appeal and the same is allowed. The impugned judgment dated 13.02.2023 passed by the High Court of Sindh, Karachi in Special Customs Reference Application No.566 of 2004, the order of the Customs Appellate Tribunal dated 09.01.2004 and the Order-in-Original dated 30.09.2002 are set aside. Show Cause Notice dated 26.06.2002 is declared to be barred by limitation and of no legal effect."

In another case, titled Assistant Commissioner in Land Unit-III Zone Cantt RTO Rawalpindi versus Umer Tariq Khan, the Hon'ble Supreme Court (vide Order dated: 15-01-2026) observed as under: -

"The law laid down by this Court in the case of Super Asia (supra) has been reiterated and reaffirmed by the Full Bench of this Court in the case of Messrs WAK Ltd. Vs. Collector, Central Excise & Sales Tax (2025 SCMR 1280). This Court in no uncertain terms held

that the principles enunciated by this Court in the case of Super Asia (supra) "are affirmed as correctly stating the law on all points."

Despite the law laid down by this Court in the aforementioned judgments, which are binding on the Federal Board of Revenue ("F.B.R.") in terms of Article 189 of the Constitution, the petitioners attempted to reinvent the wheel by agitating the ground that the time limit of 120 days prescribed in the first proviso to section 11(5) substituted and replaced by section 11G(2) of the 1990 Act for passing an order is directory and not mandatory. Since this Court has time and again held the requirement of passing an order within a period of 120 days from the issuance of the show cause notice to be mandatory and not directory, and since in the case at hand the show cause notice was issued on 15.11.2023 whereas the Order-in-Original was passed on 20.03.2024 (which is beyond the prescribed period of 120 days), this petition merits dismissal."

In another famous case, titled M/S WAK (Ltd) versus Collector Central Excise and Sales Tax, decided by the Hon'ble Supreme Court of Pakistan vide Judgment reported in SCMR 2018 P/1474. Reiterated and re-affirmed by a full Bench, holding that all the statutory powers conferred by Section 74 of Sales Tax Act, 1990 has to be exercised objectively with the principle of applicability that statutory discretions to be exercised by the Authority or officer on which it is conferred; most fundamentally, it must be exercised reasonably, not with an open-ended power in such regard.

In a famous case namely, Collector of Sales Tax Gujranwala versus Messrs Super Asia Mohammad Din and Sons (PTD 2017 P/1756), the Hon'ble Supreme Court of Pakistan resolved the issue of purpose and intent behind a legislation by holding that Ultimate test to determine whether a provision is mandatory or directory is ascertaining the legislative intent, although use of the word shall, is not the sole factor which determines the mandatory or directory nature of a provision. However, it is certainly one of the indicators of legislative intent, other factors should also be considered and the courts are duty bound to understand the real intent of the legislature as expressed in the law and no one is authorized to extend time or travel beyond according to his own choice or whims and wishes.

In a case titled, Mehr Dastagir Leather and Foot Wear Industries (Pvt) Ltd. versus FBR, the Hon'ble Supreme Court of Pakistan, SCMR 2019 P/1989 held that High Court Ruling that FBR's condonation to revive old periods lacked Justification and breached Supreme Court guide lines.

19. We know that in sales tax law, procedural discipline is just as mandatory for the respondent Department as compliance is for the tax payer but unfortunately the officers dealing with the highly frustrating and complex tax disputes, fall in procedural errors, arbitrary assessments and systematic lapses, no doubt, assessments and decisions are open to correction by the higher fora but at the cost of heavy loss and waste of time and energy; in the instant case, the law of limitation has not been enforced, by violating the mandatory dead line, resulting into the order impugned, which is not sustainable under the law.

20. To prevent systematic lapses, irregularities and illegalities by the concerned officers and stake holders, the following essential steps are sine qua non for smooth operation of the institution: -

(i) A major defect is that when the same officer handles diverse tasks it leads to complications, for instance, he detects a wrong, issues notices and remain in contact with the tax payers (as part of his position) and passes final tax demand; the Authority is required to split these powers into completely independent wings because it is a well settled principle of law that "no man shall be a judge in his own cause". This eliminates personal bias as the officer issuing an order or making an assessment will have, no personal interest or stake of "Catching a tax payer".

(ii) A strict system generated mechanism pertaining to the notices, process of assessment, maintaining, retaining records and complete data of correspondence should be maintained.

(iii) Physical interaction between a tax officer and a tax payer should be avoided which sometimes unfortunately, results into malpractices and harassment, decentralization and introduction of a faceless system will break this cycle.

21. In addition to above, a robust system of checks and balances should also be introduced. However, this must be executed without compromising personal dignity and professional respect of the officers concerned, rather take them into confidence and get them realized of their important and sensitive task of dealing with the fiscal matters, literally, the backbone of a country because a state cannot sustain itself without a stable, well managed financial foundation and revenue generation, which must be carried out strictly, in accordance with the law.

22. In view of above, the appeal filed by the appellant is allowed, mainly on the point of limitation and without discussing merits of other issues involved, consequently, the impugned order passed by the Learned Deputy Commissioner and upheld by the Learned Commissioner (Appeals) stands set-aside, leaving the parties to bear their respective costs.

23. Copy of this order be sent to the worthy Chairman BRA for information and compliance.

__SD__

Chairman

__SD__

Member

__SD__

Member

Dated: 31st August, 2026.