BALOCHISTAN SALES TAX ON SERVICES

APPELLATE TRIBUNAL, QUETTA

STA 93/2026 MA 39/2026

M/S Pakistan State Oil, (Appellant)

Versus

The Commissioner (Ops), Balochistan Revenue Authority, Quetta (Respondent)

Last date of hearing: 16-11-2026 Date of issue: 23-11-2026

Appellant by: Mr. Haris Tufail, FCA

Respondents by: Mr. Aminullah Khan, Advocate.

ORDER

DOSTAIN KHAN JAMALDINI, MEMBER: Pakistan State Oil Company Limited (the "Appellant") has filed this appeal under section 67 of the Balochistan Sales Tax on Services Act, 2015 (the "BST Act") against Order-in-Original No. 25/2026 dated 20-4-2026, issued by the learned Commissioner (Operations), Balochistan Revenue Authority (the "Authority"). The order demands a total of Rs. 13,536,891/- u/s 52(6) of the BST Act for the period from 01-7-2018 to 30-6-2019. Additionally, it imposes a penalty of Rs. 676,844/- u/s 48, along with a default surcharge under section 49, which will be calculated upon final payment.

2. Key facts of the case are as follows:

(a) The Appellant is registered as a withholding agent under the Balochistan Sales Tax Special Procedure (Withholding) Rules, 2018. Their registration specifies "franchise services including royalty, technical or other licensing services" as the principal activity. Initially, the Authority raised a demand of Rs. 68,659,927/- covering three tax years, from July 2018 to December 2021. On appeal, this Tribunal ordered a re-evaluation. After various reconciliations accepted by the department, the total amount was lowered to Rs. 23,981,037/-. The residual amount was later clarified through a corrigendum notice dated 18-3-2026, bringing it down to Rs. 13,536,891/- for the period in question.

(b) The Appellant has asked the Department multiple times for detailed invoice data. They requested them copies of the actual invoices from vendors to reconcile with their records. Although some extracts from vendors' tax returns were provided, the Appellant asserts that many of the alleged invoices were never received by them. The department proceeded with the impugned Order, treating the residual claim as unchallenged.

3. The main points of appeal from the Appellant include:

(i) The amendments included in Section 52(6) and Section 14(3) of the BST Act through the Balochistan Sales Tax on Services (Amendment) Act, 2019, are not applicable retrospectively to the period of July–December 2018.

(ii) The demand relies solely on third-party vendor declarations in their sales-tax returns and lacks independent corroborative evidence.

(iii) The Appellant was not provided the actual invoices despite several requests, thus hindering their opportunity for reconciliation and breaching principles of natural justice. Additionally, they noted that prior remand suggestions from this Tribunal were ignored. On 23-10-2026, they affirmed that invoices adding up to Rs. 12,374,892 were never received. Tabulated invoice details were submitted to this Tribunal.

(iv) In the absence of any finding of willful default or *mens rea*, both the penalty under Section 48 and the default surcharge under Section 49 should not stand.

4. The following questions emerge for our consideration:

a. Can the Commissioner act under sections 14(3) and 52(6) for July–December 2018, given that these amendments were made in January 2019?

b. Is there sufficient evidence to sustain the demand of Rs. 13,536,891 for 2018–19, considering the vendor declarations, the Appellant's requests for invoice details, and the 23 October 2026 undertaking?

c. Are the penalty under section 48 and default surcharge under section 49 justifiable?

5. During proceedings, the Appellant's counsel argued against the retrospective application of the newly inserted sections, backing their claim with judgments from the Balochistan High Court reported in 2022 PTD 1226 and the Sindh High Court in M/s Fatima Fertilizer Company Limited (Special Sales Tax Reference Application No. 30 of 2020).

6. Both judgments were carefully reviewed. The Balochistan High Court ruled in 2022 PTD 1226 that a show-cause notice lacking invocation of new provisions and legal backing was void from the start. Additionally, in the Fatima Fertilizer ruling, the Sindh High Court declared that a broad definition of "person" could not impose withholding responsibility for periods before the specific liability provision was introduced in 2019; any prior apportionment lacked statutory support.

7. Tax laws typically apply prospectively, but there's a clear differentiation between procedural and substantive provisions. The provisions in question (Sections 14(3) and 52(6)) create personal liabilities for withholding agents and outline their recovery methods, qualifying as substantive modifications. The general principle of no retrospectivity applies here unless explicitly stated otherwise by legislation. Section 1(2) of the Balochistan Sales Tax on Services (Amendment) Act, 2019 (Act No. II of 2019) states, *"It shall come into force at once and shall be deemed to have taken effect on and from 1st day of July 2015."*

8. This wording is clear and establishes a strong premise for retrospective application that overrides the default presumption against such application. Hence, the Appellant's argument regarding non-retrospectivity is not valid, and the provisions are effective from 1-7-2015.

9. However, a demand under Section 52(6) or Section 14(3) must be supported by credible evidence. The total demand of Rs. 13,536,891 hinges upon vendor declarations alone. The Appellant consistently stated they did not receive many of the supposed invoices and stressed that invoices totaling approximately Rs. 12,377,892/- were not received at all. They repeatedly requested the original invoices for verification. Although extracts from vendors' returns were shared, the department did not present the actual

invoices for comparison with the Appellant's accounts. Tax demands cannot be founded only on unverified third-party declarations when services are denied by the recipient, who wants to verify the original documents. The significant reductions previously accepted by the department indicate the original data was flawed. Therefore, the residual demand lacks the necessary evidence.

10. The impugned Order fails to demonstrate that the Appellant acted with willfulness or dishonesty. Record shows the Appellant engaged in consistent communication, made substantial voluntary reconciliations and payments, and persisted in seeking additional information. Without evidence of deliberate non-compliance, the penalties under section 48 and the default surcharge under section 49 cannot be justified.

11. Considering these points, while legal provisions apply as of 1-7-2015, the impugned Order lacks merit based on available evidence and principles of natural justice. Thus, we partly allow the appeal and annul the impugned Order-in-Original No. 25/2026 dated 20-4-2026, eliminating the Rs. 13,536,891 demand, the Rs. 676,844 penalty, and any default surcharge, all subject to the following directives.

12. We acknowledge the Appellant's request for the total demand to be dismissed without further inquiries. Their concerns regarding invoices not being presented are justified. However, the evidence supporting the demand is insufficient for complete dismissal. Thus, we find a complete elimination of the demand at this stage wouldn’t yield an equitable outcome. The Amendment Act, 2019 makes the relevant provisions effective from 1-7-2015. Though vendor declarations aren’t conclusive, they establish a tentative case that warrants examination with corresponding primary documentation from the Department. Nevertheless, the Appellant can’t be left facing unverifiable claims. Therefore, a balanced approach is required to satisfy both the tax authority’s interests and the taxpayer’s rights to justice.

13. Therefore, we remand this matter back to the Commissioner (Operations) with these instructions:

(i) The department must, within ten (10) days of receiving this order, provide the Appellant with complete copies of the relevant invoices (or fully verified extracts containing all vital details such as invoice number,

date, value, tax amount, and vendor details) that support the Rs. 13,536,891/- residual demand.

(ii) The Appellant must, within twenty (20) days after receiving these documents, submit a comprehensive reconciliation statement backed by their accounts, prior undertakings, and any other pertinent evidence.

(iii) The Commissioner should then give a fair opportunity for hearing and issue a fresh detailed order, adhering strictly to legal procedures, within thirty (30) days of receiving the Appellant's reconciliation.

14. This decision pertains solely to the tax period from July 2018 to June 2019 as specified in the impugned Order. Any issues concerning other periods that may still be open will be addressed according to law.

15. The appeal is disposed of accordingly.

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Chairman

__SD__

Member

__SD__

Member

Quetta, November 23, 2026