

IN THE HIGH COURT OF SINDH AT KARACHI.

Present:

Justice Mohammad Abdur Rahman
Justice Dr. Shah Nawaz Memon.

Spl. Sales Tax Reference Application No. 122 of 2005.

Pakistan Television Vs. Collector of Sales Tax & Central Excise

Date of hearing: 23.09.2026.

Date of judgment: 23.09.2026.

Applicant: Through Mr. Uzair Qadir Shoro,
Advocate.

Respondent: Through Mr. Ameer Bux Metlo,
Advocate.

JUDGMENT

Dr. Shah Nawaz Memon-J.:- This Reference Application, presented on 30.07.2005 under section 47 of the Sales Tax Act, 1990 ("the Act") read with section 3(3) of the Sindh Sales Tax Ordinance, 2000 ("the Ordinance, 2000"), arises from the judgment dated 24.06.2005 of the learned Customs, Excise and Sales Tax Appellate Tribunal, Karachi Bench-II, in Sales Tax Appeal No. 83/2002(K-2), by which the Applicant's appeal against Order-in-Original No. 001/2002 dated 29.01.2002 was dismissed.

I. BACKGROUND

1. The Applicant, Pakistan Television Corporation Limited, is a Government-owned company which telecasts programmes across its network of stations and sells commercial airtime to advertisers. With effect from 01.07.2000, advertisement on television was brought to tax under the Ordinance, 2000, which applied the Act, and the rules and notifications made under it, *mutatis*

mutandis to the collection and payment of that tax. The Applicant was registered accordingly.

2. On scrutiny of the Applicant's record for the tax periods of 2000-01 up to April 2001, the department took the view that input tax of Rs.31,480,542/- had been adjusted against output tax on advertisements contrary to section 8 of the Act read with S.R.O. 578(I)/98 dated 12.06.1998, including input tax on goods used in informative and entertainment programmes which the department regarded as outside the taxable service. A show cause notice dated 29.09.2001 followed. By the Order-in-Original, the learned Collector (Adjudication) held input tax on vehicles, building materials, office equipment, gas appliances, generators below 250 KVA, food supplies, furniture, electrical appliances, utensils and stationery to be barred by S.R.O. 578(I)/98; held central excise duty on telephone charges not adjustable; allowed input tax on electricity and gas only to the extent shown to have been consumed in the telecast of taxable advertisements; and left the remaining heads to be determined on the same basis. The learned Tribunal upheld that order and held the Applicant liable to the adjudged tax and additional tax.
3. The questions proposed, as re-framed by the Applicant on 09.08.2005, ask whether the learned Tribunal construed sections 7 and 8 of the Act correctly in confining input tax to goods directly relatable to the taxable service; whether it construed the meaning and effect of S.R.O. 578(I)/98 correctly; and whether the Applicant could be subjected to additional tax.

II. THE REQUEST FOR REFERENCE TO ALTERNATIVE DISPUTE RESOLUTION

4. At the very outset, learned counsel for the Applicant requested that, the Applicant being a State-owned enterprise, the matter ought to be referred to alternative

dispute resolution in terms of the amended law. He further submitted that in similar matters this Court as well as the Honourable Supreme Court of Pakistan have referred a number of cases to the Alternative Dispute Resolution Committee. Learned counsel for the Respondent did not oppose the request.

5. We have considered the request. It concerns the forum rather than the merits, and it must be examined before the questions proposed are taken up. By the Tax Laws (Amendment) Act, 2024, section 47A of the Act was substituted. Its first proviso and the Explanation read:

"Provided that where the aggrieved person is a state-owned enterprise (SOE), the limit of tax liability of fifty million rupees or above mentioned in clause (a) shall not apply and it shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section:

Provided further that no suit, prosecution, or other legal proceedings shall lie against the SOE in relation to the dispute resolved under this section.

Explanation.- State-owned enterprise shall have the same meaning as assigned thereto in the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023)."

6. The Applicant is a company incorporated under the companies law, owned and controlled by the Federal Government, and its own statement of the case describes it as a Government-owned corporation. It thus falls within the definitions of "company" and "state-owned enterprise" in section 2 of the State-Owned Enterprises (Governance

and Operations) Act, 2023, and within the application of that Act under section 3(1). Learned counsel for the Respondent did not dispute that status, and nothing has been placed before us to show that the Applicant falls within any of the exclusions in section 3(1)(a) to (c). The Applicant has, on the same footing, been treated as a State-owned enterprise for the purposes of the parallel provision in the Federal Excise Act, 2005.¹

7. The language of the proviso admits of no doubt. The monetary threshold which otherwise governs access to alternative dispute resolution is lifted for a State-owned enterprise, and recourse to the committee is made "mandatory". By sub-section (2), the provisions of section 134A of the Income Tax Ordinance, 2001 and the rules made under it apply *mutatis mutandis*. That scheme provides for the constitution of a committee by the Board, for recovery to be held in abeyance while the committee is seized of the dispute, and, where the committee does not decide within the time allowed, for its dissolution, whereupon the State-owned enterprise may pursue its remedy before the forum appropriate to the stage of the proceedings.² The legislative choice is plain: disputes between a State-owned enterprise and the revenue, in which the Federal Government is in substance on both sides, are to be resolved within the Government's own mechanism before they occupy the Courts.
8. That the present proceedings began long before the amendment makes no difference. Section 47A regulates the forum and the procedure by which a dispute is to be resolved. It takes away no vested right of either side; if anything, it confers a further avenue of resolution together

¹ *Pakistan Television Corporation Ltd v. ATIR* [2025 PTD 1575 (Islamabad)].

² Section 134A(5), (11) and the second proviso to section 134A(2) of the Income Tax Ordinance, 2001; see *Pakistan Railway Advisory & Consultancy Services v. AC* [2025 PTD 1596 (Lahore)].

with a statutory protection. A provision of that character governs proceedings pending when it comes into force.³

9. Nor, in our view, does the fact that the levy in question was imposed under the Ordinance, 2000 take the matter outside section 47A. The Ordinance, 2000 adopted the Act as the machinery for the collection and payment of the tax, and the entire proceedings, from the show cause notice through adjudication and appeal to the present reference under section 47, have been conducted under that machinery by the federal department. Section 47A is part of the same machinery, and it was not suggested that some other provision stands in its way.
10. As submitted by learned counsel for the Applicant, the course sought is the one consistently followed by the Supreme Court and by this Court in references and appeals involving State-owned enterprises that were pending when the amendment came.⁴ As the questions of law are not being answered, we express no view on the merits of the Applicant's claim to input tax or on the demand of additional tax. The committee will examine the dispute on its own merits and in accordance with law.

III. ORDER

11. This Reference Application is disposed of. In terms of section 47A of the Act read with section 134A of the Income Tax Ordinance, 2001, the dispute arising from Order-in-Original No. 001/2002 dated 29.01.2002, as upheld by the learned Tribunal on 24.06.2005, stands referred to the Federal Board of Revenue for the constitution of a committee. The Applicant shall apply to the Board within thirty days of the receipt of this judgment,

³ *Pakistan Television Corporation Ltd v. ATIR* (note 1 above).

⁴ *State Life Insurance Corporation v. ACIT* [Civil Appeals 649 to 652 of 2022, SC, order dated 11.03.2025]; *PNSC v. CIR* [Civil Petitions 946 to 951-K of 2025, SC, order dated 11.09.2025]; *PIAC v. CIR* [2026 PTD 648]; *Trading Corporation of Pakistan v. Federation of Pakistan* [2024 PTD 1571].

and the Board shall constitute the committee in accordance with law.

12. Until the committee has decided the dispute, no coercive measure shall be taken against the Applicant for the recovery of the amounts adjudged under the Order-in-Original, including the additional tax demanded through the recovery notice dated 18.07.2005. Should the committee be dissolved without a decision, or should the Applicant remain aggrieved by its decision, the Applicant may seek such remedy as is available to it in law.
13. A copy of this judgment shall be sent under the seal of this Court to the learned Appellate Tribunal Inland Revenue, as successor forum, in terms of section 47(2) of the Act read with section 133 of the Income Tax Ordinance, 2001.

JUDGE

JUDGE

Karachi,

Dated: 23.09.2026.