

JUDGMENT SHEET
IN THE LAHORE HIGH COURT,
RAWALPINDI BENCH, RAWALPINDI
JUDICIAL DEPARTMENT

Sales Tax Reference No.06 of 2025

Foundation Wind Energy-II V/S *Commissioner Punjab
Revenue Authority etc.*

JUDGMENT

Date of hearing	28.01.2026
Appellant(s) by	Barrister Saad M. Hashmi, ASC, Yawar Mukhtar, Muhammad Abdul Sajjad, Shahid Razzaq, Advocates.
Respondent(s) by	Mr. Muaz ul Mulk, Advocate with Ms. Nadia Murad, Legal Officer, Punjab Revenue Authority. Barrister Raja Hashim Javed, Assistant Advocate General. Mr. Khudayar Khan, Advocate.

JAWAD HASSAN, J. This Reference Application in terms of Section 67A of the Punjab Sales Tax on Services Act, 2012 (hereinafter referred to as “*Act*”) stems from the order dated 25.02.2025 (“*impugned order*”) whereby Appellate Tribunal of Punjab Revenue Authority, Lahore (Bench-I) (hereinafter referred to as “*Appellate Tribunal*”) proceeded to partially accept the appeal preferred by the applicant by setting aside penalty imposed by way of order dated 16.09.2021 passed by the Commissioner (Appeals), Punjab Revenue Authority, Lahore.

I. OVERTURE

2. Facts, in brief, necessary for the determination of the questions raised in the present reference application, are that the Assessing Officer issued a show cause notice dated 15.06.2016 alleging therein that during the tax period from 01.07.2014 to

30.06.2015 the applicant received taxable services and made payments to contractors amounting to Rs.3,051,749,123/- without deducting and withholding Punjab Sales Tax of Rs.488,279,856/-, and further failed to file the requisite returns/withholding statements before the Punjab Revenue Authority in violation of the provisions of the “*Act*”. The applicant submitted a reply to the “**SNC**”; however, the Assessing Officer, being dissatisfied therewith, passed an assessment order dated 05.01.2017 determining Punjab Sales Tax along with penalty and default surcharge under Sections 48 and 49 of the “*Act*”. The said assessment order was challenged before the Commissioner (Appeals), Punjab Revenue Authority, Lahore, who dismissed the appeal vide order dated 16.09.2021. The applicant thereafter preferred an appeal before the “**Appellate Tribunal**”, which was partially allowed through the “*impugned order*”.

II. SUBMISSIONS OF APPLICANT

3. Barrister Saad M. Hashmi, ASC learned counsel for the applicant *inter alia* argued that the Order-in-Original was barred by limitation as mandated by sub-section 4 of Section 52 of the “*Act*” because the “**SNC**” was issued on 15.06.2016, whereas the Order-in-Original was passed on 05.01.2017, beyond the prescribed statutory period of six months, that Order-in-Original is illegal and unlawful as the provisions of sub-section (3) of Section 3 of the “*Act*” restrict the applicability of the “*Act*” exclusively to a person having a registered office or place of business within the Province of Punjab, whereas the applicant does not fall within the said territorial jurisdiction in respect of the impugned services; that the Assessing Officer has failed to appreciate that the services mentioned in the “**SNC**” were received in the Province of Sindh, where sales tax on services was duly withheld and deposited by the applicant under the Sindh Sales Tax on Services Act, 2011; hence, the “**PRA**” has no lawful authority to levy or recover sales

tax on such services; that the demand raised through the “*SCN*” is based on a misreading and misapplication of Section 4(1) of the “*Act*” as the said provision does not create any tax liability upon the recipient of services; rather, even in cases of erroneous charging of tax by a service provider located in another province, the obligation to pay tax lies solely upon the service provider and not upon the recipient of services; that the applicant was not registered in terms of Section 4(2) of the “*Act*” prior to 15.02.2016 and was not legally required to be registered before 20.02.2015; therefore, no obligation to withhold or deposit sales tax could lawfully be imposed upon the applicant for the period prior thereto. Barrister Saad M. Hashmi, ASC the counsel for the applicant has relied on “NAGINA SILK MILL, LYALLPUR versus THE INCOME TAX OFFICER, A WARD LYALLPUR and others” (**PLD 1963 Supreme Court 322**), “Messrs DEWAN CEMENT LTD. versus COLLECTOR OF CUSTOMS AND SALES TAX and another” (**2009 SCMR 1126**), “FEDERATION OF PAKISTAN through Secretary, Finance, Islamabad and 4 others versus Messrs IBRAHIM TEXTILE MILLS LTD. and others” (**1992 SCMR 1898**), “PAK GULF CONSTRUCTIONS (PVT.) LIMITED versus GOVERNMENT OF PUNJAB etc” (**2025 PTD 255**), “FAUJI CEMENT COMPANY LIMITED versus GOVERNMENT OF PUNJAB and others” (**2025 PTD 864**), “ADDITIONAL COMMISSIONER INLAND REVENUE, AUDIT RANGE, ZONE-I and others versus Messrs EDEN BUILDERS LIMITED and others” (**2018 PTD 1474**), “COLLECTOR OF CUSTOMS, SALES TAX (WEST), KARACHI versus Messrs K & A INDUSTRIES, KARACHI” (**2006 PTD 537**), Tax Reference (PRA) No.03 of 2025 passed in judgment dated 19.11.2025 in case titled “M/s KHAWAJA TANNERIES (PVT.) LTD versus COMMISSIONER PUNJAB REVENUE AUTHORITY and others” and Tax Reference (PRA) No.60652 of 2021 passed in judgment dated

05.06.2024 in case titled “M/s JAWA PHARMACEUTICALS (PVT.) LTD versus COMMISSIONER PUNJAB REVENUE AUTHORITY and others”.

III. SUBMISSIONS OF RESPONDENTS

4. Learned counsel for the Respondents, on the other hand, supported the “*impugned order*” and stated that Punjab Revenue Authority was empowered to recover the amount of withholding tax from the applicant.

5. After having heard learned counsel for the parties, we have perused the record.

IV. PROCEDURAL HISTORY OF THE CASE

6. The present reference application was filed under Section 67A of the “*Ordinance*”, wherein the applicant raised, *inter alia*, questions of law regarding the legality of confirmation of sales tax under the “*Act*” on services allegedly received in the Province of Sindh, as well as the jurisdiction of the authorities to invoke the provisions of the “*Act*” in respect of such services. Upon preliminary consideration, the reference application was admitted for regular hearing vide order dated 30.04.2025, and on the same date, relying upon the judgment rendered in “PAK GULF CONSTRUCTIONS (PVT.) LIMITED versus GOVERNMENT OF PUNJAB etc” (2025 PTD 255), notices were issued to the respondents. Relevant portion of the said judgment is reproduced hereunder:

“At the outset, when confronted to the maintainability of this STR, Hafiz Muhammad Idrees, ASC while relying on the judgment reported as “PAK GULF CONSTRUCTION (PVT.) LIMITED versus GOVERNMENT OF PUNJAB and others” (2025 PTD 255), submitted that the Applicant is a Private Limited Company and engaged in generation of electricity in the Province of Sindh. Added that on 15.06.2016, the Applicant received a show-cause notice regarding charge of sales tax to the tune of Rs.488,279,856/- on account of non-withholding on services. The Applicants

raised objections by filing reply of the said show-cause notice, which were not considered by the Respondent No.2, who without lawful authority passed an order dated 16.09.2021. Feeling aggrieved thereof, the Applicant filed Appeals before the Respondent No.3/Additional Commissioner (Appeals), PRA and then the Respondent No.4/Tribunal, respectively, which were rejected/dismissed. Further stated that the Applicant is providing services in Province of Sindh, therefore, the Applicant is not liable to withhold tax on service rendered in the other Province. He further submitted that the Preamble of the Act clearly mentions that it is expedient to provide for the levy of a tax on services provided, rendered, initiated, originated, executed, received or consumed in the Punjab. Whereas the Tribunal has rejected the appeal on the ground that the Applicant being resident Company of Punjab falls under the lawful jurisdiction of PRA under Section 2(35)(b) of the Act and is a prescribed withholding agent of PRA as per Rule 2(f)(v) of the Punjab Sales Tax on Services (Withholding) Rules, 2015 (the "Rules")”

Thereafter on 19.06.2025, the Court pointed out the nub of the matter to the following effect:

“The nub of the matter raised by learned counsel for the applicant is that whether the applicant who has its registered office in Rawalpindi is liable to pay the tax of activity which happened in the province of Sindh because the show cause notice was to the effect that he has not paid the sales tax and when the applicant raised objections by filing reply of show cause notice then the stance of the department-PRA was changed. On this point Ms. Fatima Midrar, Advocate, learned counsel for the PRA states that the department-PRA has already submitted its reply which has been reproduced in the impugned order which order has to be upheld”.

7. During the course of hearing of this reference application, the court confronted to learned counsel for the Respondents-PRA on what legal foundation, the show cause notice was issued under Rule 14 of the Withholding Rules, 2012 and 2015 read with Section 52 of the “*Act*”, but he could not tender any satisfactory

answer. The relevant extract of the show cause notice reads as under:

“Whereas sales tax on the services was levied through the Punjab Sales Tax on Services Act, 2012 and the construction services, services provided by consultants, service provided by advertising agents, repair & maintenance service and services provided by commission agents accordingly were made taxable through their incorporation at Sr.No.15, 24, 29, 39, 40 and 52 of the second schedule of the Act.

3. In the light of above, scrutiny of record in your case viz-a-viz the information available with this office revealed that you were engaged in construction of building and civil works repair & maintenance and were also recipient of legal & professional consultancy, commission agents services and advertisement services during the subject period”.

8. After issuance of above show cause notice, the Order-in-Original was passed without considering the points raised by the applicant and even without mentioning any direct provision of law which violates the judgment passed by this Court on the same provision of law reported in “FAUJI CEMENT COMPANY LIMITED versus GOVERNMENT OF PUNJAB and others” (2025 PTD 864) in which earlier judgment cited in “Rahat Café, Rawalpindi versus Government of Punjab through Secretary Finance and others” (2024 PTD 898) and “M/s JAWA PHARMACEUTICALS (PVT.) LTD versus COMMISSIONER PUNJAB REVENUE AUTHORITY and others”, was relied upon.

V. DETERMINATION

9. Admittedly, the “**SNC**” was issued on 15.06.2016 under Section 52 of the “*Act*” read with Rule 14 of the (Withholding) Rules, 2012 and 2015 for the tax period 01.07.2014 to 30.06.2015. The primary question of law in this case is whether the “**PRA**” has authority to charge and collect sales tax under the “*Act*” on services received outside the territory of the Province of Punjab. Pertinently, the scope, application and legal import of Section 52

of the “*Act*” read with Rule 14 of the Withholding Rules, 2012 & 2015 stand conclusively elaborated and settled by this Court in “FAUJI CEMENT COMPANY LIMITED versus GOVERNMENT OF PUNJAB and others” (2025 PTD 864) that was passed while relying earlier judgment cited in “Rahat Café, Rawalpindi versus Government of Punjab through Secretary Finance and others” (2024 PTD 898), paragraphs No.4 and 5 thereof read as under:

4. *It is pertinent to mention here that in the judgment reported as Rahat Café, Rawalpindi versus Government of Punjab through Secretary Finance and others (2024 PTD 898), this Court has already interpreted provisions of Section 52 of the Act by observing that the officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act. In this case, the Authority has straightway invoked the provisions of Section 52(3) before fulfilling the mandatory requirement of issuing a notice in terms of Section 52(1) of the Act, which clearly states that where by reason of inadvertence, error, misconstruction or for any other reason, any tax or charge has not been levied or has been short levied, the person liable to pay such amount of the tax or charge shall be served with a notice, within [eight] years of the relevant tax period requiring him to show cause for payment of the amount specified in the notice. Moreover, paragraph-3 of the impugned show cause notice only mentions that various services were obtained which were taxable as per provisions of Second Schedule of the Act and scrutiny of the Petitioner’s taxpayer profile shows that it failed to clear its due tax liability, which is not valid reason to bound the Petitioner to deposit the due amounts of Punjab Sales Tax in lieu of the taxable services. The stance taken by Hafiz Muhammad Idris, ASC is that the Petitioner do not fall within the category of taxpayer rather it comes within the definition of a withholding agent for which relevant provision is Section 14 of the Act, which is reproduced hereunder for ready reference:*

“14. Special procedure and tax withholding provisions.—

(1) Notwithstanding anything contained in this Act, the Authority may, by notification

in the official Gazette, prescribe a special procedure for the payment of tax, registration, book keeping, invoicing or billing requirements, returns and other related matters in respect of any service or class of services, as may be specified.

(2) Notwithstanding other provisions of this Act, the Authority may require any person or class of persons whether registered or not for the purpose of this Act to withhold full or part of the tax charged from such person or class of persons on the provision of any taxable service or class of taxable services and to deposit the tax so withheld, with the Government within such time and in such manner as it may, by notification in the official Gazette, specify.

Explanation: The word “charged” used in this subsection means and includes the tax liable to be charged under this Act or the rules made thereunder.

(3) Where a person or class of persons is required to withhold or deduct full or part of the tax on the provision of any taxable service or class of taxable services and either fails to withhold or deduct the tax or having withheld or deducted the tax, fails to deposit the tax in the Government treasury, such person or class of persons shall be personally liable to pay the amount of tax to the Government in the prescribed manner.”

For further assistance a quick glance can also be taken on Section 14A of the Act, which reads as under:

“14A. Special procedure for collection of tax, etc.—

(1) Notwithstanding anything contained in this Act, the Authority may require any other person or class of persons, not necessarily being a service provider or a service recipient in a particular transaction, to collect full or part of the tax charged from another person or class of persons on the provision of any taxable service or class of taxable services and to deposit the tax so collected, in the Government treasury within such time and in such manner as the Authority

may, by notification in the official Gazette, specify.

(2) For purposes of subsection (1), the special procedure prescribed for collection and payment of tax may also provide for registration, book keeping, invoicing or billing requirements, returns and other related matters in respect of any service or class of services, as may be specified.

(3) Where a person or class of persons is required to collect full or part of the tax on the provision of any taxable service or class of taxable services and either fails to collect the tax or having collected the tax, fails to deposit the tax in the Government treasury, such person or class of persons shall be personally liable to pay the amount of tax to the Government in the prescribed manner.”

After perusal of the afore-quoted provisions of law, it will clarify that Sub-Section (2) of Section 14 of the Act discusses the powers of the Authority in connection with a withholding agent whereas Section 14A(2) of the Act describes a special procedure for collection and payment of tax in respect of any service or class of services, as may be specified but unfortunately, without first meeting the mandatory requirements of these provisions, straightway notice under Section 52 of the Act has been issued to the Petitioner.

5. *Since the issue in this case relates to withholding tax and according to stance of learned counsel for the Petitioner, the same cannot be levied or collected under Section 52 of the Act, therefore, to better understand legal proposition involved in the matter, it would be appropriate if a minute comparison is made between the relevant provisions of law, the Act, which in this case are “Section 52” and “Section 14” of the Act. When a quick glance is taken on Chapter VIII of the Act, which also comprises Section 52, it would clarify that this Chapter describes the procedure regarding offences and penalties, including the procedure meant for (i) exemption from penalty and default surcharge and (ii) recovery of tax not levied or short-levied. Whereas, Section 14 comes within the purview of Chapter II of the Act, which is most relevant here because it mentions the scope of tax with charging*

sections/provisions by giving a complete mechanism regarding (i) person, who is liable to pay tax [Section 11]; (ii) liability of a registered person [Section 11A]; exemptions [Section 12]; (iii) effect of change in the rate of tax [Section 13]; (iv) special procedure and tax withholding provisions [Section 14]; (v) special procedure for collection of tax, etc. [Section 14A]; (vi) delegation of power to collect, administer and enforce tax on certain services [Section 15]; (vii) deduction and adjustment of tax on inputs to the business [Section 16]; (viii) certain transactions not admissible [Section 16A]; (ix) tax credit not allowed [Section 16B]; (x) extent of adjustment of input tax [Section 16C] and (xi) refunds [Section 16D].

10. The legal position crystallized through above said judgments was that impugned notice issued under Section 52 of the “*Act*” was legally unsustainable due to the fact that Respondents/Authority, without first invoking or complying with the mandatory provisions regarding withholding and collection of tax, proceeded directly to issue a notice under section 52 of the “*Act*” and tax liability could only be determined after the person served with notice was afforded an opportunity under section 52(1) to show cause. In that particular case, the Respondent Authority failed to issue the mandatory show cause notice before invoking section 52(3) and the reasons stated in the show cause notice merely citing taxable services and alleged unpaid tax cannot, in law, compel the applicant to deposit the amounts. It evinces from the “*impugned order*” that the applicant was held liable to pay Punjab Sales Tax on the grounds of having registered office in Rawalpindi, being a private limited company and resident of Punjab in terms of Section 2(35)(b) of the “*Act*”, registered person under Section 2(33) of the “*Act*” and a withholding agent under Rule 2(f)(v) of the Withholding Rules, 2015. Learned counsel for the applicant contends that the applicant is engaged in the generation of wind energy, with its power plant located in the

Province of Sindh, and merely maintains a registered office at Rawalpindi. It is urged that the applicant was not a person under Section 4(2) of the “*Act*” prior to 15.02.2016, nor was it liable to registration before 20.02.2015; consequently, the Punjab Revenue Authority lacked lawful authority to levy sales tax on services received by the applicant during the period from 01.07.2014 to 20.02.2015. We have carefully examined the “*impugned order*” passed by the “*Appellate Tribunal*” and are unable to concur with the same for the reason that the “*Appellate Tribunal*” proceeded on the premise that the applicant, being a private limited company and a resident of Punjab within the meaning of Section 2(35)(b) of the “*Act*”, was ipso facto amenable to the jurisdiction of the Punjab Revenue Authority and liable as a withholding agent under the Withholding Rules, 2015. This approach, in our considered view, reflects a clear misreading and non-reading of the statutory scheme of the “*Act*”. Mere residency of a company in Punjab or its classification as a prescribed withholding agent does not, by itself, create a substantive tax liability under the “*Act*”. Liability to sales tax under Sections 11, 24, and 52 of the “*Act*” is fastened exclusively upon a registered person providing taxable services. The “*Appellate Tribunal*” failed to appreciate that the applicant is admittedly a recipient of services and not a service provider, and the “*Act*”, unlike statutes of other Provinces, does not contain any express provision authorizing recovery proceedings against a recipient of services in the capacity of a withholding agent for tax not levied or short-levied. The finding of the “*Appellate Tribunal*” that the establishment of IPPs in Sindh and the sale of electricity therein has no nexus with the controversy is also legally untenable. The place where services are rendered and received, and the territorial nexus of the taxable event, are foundation to the assumption of jurisdiction under the “*Act*”. In somewhat similar situation, whereby the PRA sought compulsory registration of a

company carrying out his entire business in Islamabad territory having had an office in Rawalpindi, the Court has held in the case of "PAK GULF CONSTRUCTIONS (PVT.) LIMITED versus GOVERNMENT OF PUNJAB etc" (2025 PTD 255) that "*the PRA is controlled by the province of Punjab while capital territory comes within the administrative mechanism of the Federal Government*". We are also mindful of the fact that the issue of service recipient and registered person has already been decided by learned Division Bench of this Court in Tax Reference (PRA) No.60652 of 2021 vide judgment dated 05.06.2024 titled "M/s JAWA PHARMACEUTICALS (PVT.) LTD versus COMMISSIONER PUNJAB REVENUE AUTHORITY and others" whereby the learned Division Bench observed that no recovery of sales tax under Sections 11, 24, or 52 of the "*Act*" can be made from the applicant in the capacity of a recipient of services or withholding agent. The relevant portion of the aforementioned judgment is reproduced hereunder:

3. *The first contention raised by learned counsel for the applicant is that no recovery of tax can be made from the applicant under Section 52 of the Act. Section 52 relates to recovery of tax which has not been levied or short-levied and provides that the person liable to pay such amount of tax or charge shall be served with a notice within eight years of the relevant tax periods requiring that person to show cause for payment of the amount specified in the notice. Reading section 52 with section 11 of the Act would ineluctably show that such a notice could only have been served on the person providing services and not the applicant. There is considerable force in this contention and if we were to consider the amendment made by other Provinces such as the Province of Sindh while inserting Sub-section (1B) in section 47 of the Sindh Sales Tax on Services Act, 2011, the liability on withholding agent has also been fixed in case recovery is sought for tax not levied or short-levied. Therefore, the*

legislature was aware of the need for filling in the gap and to include a withholding agent in the category of persons against whom proceedings could be initiated. No such amendment has been brought forth in the Act and thus in our opinion no proceedings can be initiated under Section 52 of the Act against a recipient of services in his capacity as a withholding agent. Learned counsel for the applicant submitted that the sales tax has already been paid under the federal law. This is based on the submission that the applicant is in fact not a recipient of services but of goods manufactured by the suppliers and this aspect of the matter has not been considered while passing the impugned order. We have no doubt that this question ought to have been decided ahead of the legal issues regarding liability of the applicant to make the payment of tax as it was essential to bring home the fact that the applicant was a recipient of services and not of goods. Unless, this has been done, the show cause notice would have no basis in law.

4. Section 24 of the Act further supports the contentions raised by learned counsel for the applicant that how section 24 relates to the assessment of tax and empowers an officer of the Authority if he is of the opinion that a registered person has not paid the tax due on taxable services provided by him to make an assessment and the tax actually payable by that person. Once again, the assessment of tax is in respect of registered person who has provided taxable services. Learned counsel for the department laid stress on the definition of 'registered person' in the main enactment as well as the rules to argue that a registered person by definition includes a person liable to be registered. This however includes the twin conditions as explicated above which not only includes a registered person but also a person who has provided taxable services. Even if the applicant was deemed as a registered person the applicant has not provided taxable services and therefore, the proceedings cannot be initiated against the applicant. There was no impediment in the

way of the respondent-department to have initiated proceedings against the person who have provided taxable services which for reasons unknown have not been initiated.

5. Learned counsel for the applicant also relied upon Circular No.2 of 2015 by which the Govt. of the Punjab held in abeyance the levy and collection of Punjab Sales Tax on the Services provided or rendered by persons engaged in Inter-city transportation or carriage of goods. The only condition was that these transporters of goods should be operating through Truck Addas declared as such by the Punjab Revenue Authority (PRA). This Circular was extended from time to time and it is conceded that no declaration was made by the Punjab Revenue Authority regarding Truck Addas to be established at specific places.

6. The reliance of learned counsel for the department on section 14 is inapt and that provision is inapplicable to the facts of the present case. Section 14 provides a special procedure and tax withholding provisions and the first condition for such a procedure is for the Authority to prescribe a special procedure by notification in the official gazette. Learned counsel for the respondents invites this Court to the provisions of the Punjab Sales Tax on Services (Withholding) Rules, 2015 to contend that this would constitute a special procedure duly notified in the official gazette. This argument has no basis since the Rules, 2015 have been enacted under Section 76 of the Act and do not flow from the provisions of section 14 of the Act.

Underlining for emphases

11. Furthermore, the Division Bench of this Court in Tax Reference (PRA) No.03 of 2025 titled "M/s Khawaja Tanneries (Pvt.) Limited versus Commissioner Punjab Revenue Authority and others" (LHC Citation 2025 LHC 6655) decided on 19.11.2025 has held that:-

4. There is no cavil that for the purposes of determining the obligation / liability of a withholding agent each and every transaction has to be reconciled – it was not obligatory for the department to identify and segregate each and every incidence of service received by the recipient being liable to be subjected to tax as taxable service under the Act during relevant tax period, which, i.e., the department, upon gaining information from undisputed source – [audited accounts of the company] – may confront the withholding agent with accumulated / composite amount of consideration paid for the services received and thereafter it is the responsibility of the withholding agent to explain details of each of the transaction(s) and establish that why withholding tax, in the capacity of a withholding agent, was not collected / deducted, from the payment to be made to the service provider, and whether such amount was accordingly deposited. Withholding agent may otherwise satisfy department that tax was accordingly paid, who otherwise had specific knowledge of each transaction”.

12. The ultimate crux of the above said judgment is that the Punjab Revenue Authority is competent to initiate withholding tax proceedings on the basis of undisputed audited accounts showing composite amounts paid for services, final determination of withholding tax liability cannot be made on aggregated figures alone; rather, each individual transaction must be reconciled and examined to ascertain whether it constitutes a taxable service, the applicable rate of tax, and the obligation to deduct and deposit tax. While the burden lies upon the withholding agent to explain the nature of transactions and justify non-deduction of tax, once documentary evidence is produced before the Appellate Tribunal, it is incumbent upon the Tribunal, being the final fact-finding authority, to scrutinize and reconcile each transaction and determine taxability accordingly. The Tribunal's failure to undertake such an exercise amounted to non-application of judicial mind, warranting annulment of its order and remand of the matter for fresh decision in accordance with law.

13. Based on the dictums laid down by the Courts on the Punjab Sales Tax on Services Act, 2012 and the Rules framed thereunder in the cases of “PAK GULF CONSTRUCTIONS”, “RAHAT CAFÉ, RAWALPINDI”, “FAUJI CEMENT COMPANY LIMITED” “M/s JAWA PHARMACEUTICALS (PVT.) LTD”, and “M/s KHAWAJA TANNERIES (PVT.) LTD”, we are of the considered view that the show cause notice was issued without any legal foundation and the “*Appellate Tribunal*” erred in upholding the initiation of proceedings under Section 52 of the “*Act*” against the applicant, despite the absence of any statutory authority permitting such proceedings against a service recipient. Moreover, the reliance placed on the Withholding Rules, 2015 is misplaced, as subordinate legislation cannot enlarge or create a substantive tax liability not contemplated by the parent statute.

14. For the foregoing reasons, we **allow** this reference application and *set aside* the “*impugned order*” as well as Order-in-Original and show cause notice and hold that the “*Appellate Tribunal*” fell in error by sustaining the impugned proceedings and by affirming the jurisdiction of the Punjab Revenue Authority against the applicant.

15. Office shall send a copy of this order under seal of the Court to the “*Appellate Tribunal*” as per Section 67A(4) of the “*Act*”.

(MIRZA VIQAS RAUF)
JUDGE

(JAWAD HASSAN)
JUDGE

Approved for Reporting

JUDGE

JUDGE