

# Sindh Sales Tax on Services Act, 2011

**60. Appointment of the Appellate Tribunal.--**(1) There shall be established an Appellate Tribunal to exercise the functions conferred on such Tribunal by this Act or the rules made thereunder.

(2) The Appellate Tribunal shall consist of a Chairperson and such other judicial and <sup>1</sup>[technical] members as are appointed by the Government having regard to the needs of the Tribunal.

(3) A person may be appointed as a Judicial Member of the Appellate Tribunal if the person--

<sup>2</sup>[(a) <sup>3</sup>[\* \* \*] is or has been a Judge of the Sindh High Court or is or has been Judge of a District and Sessions Court with at least two years of service as a District and Sessions Judge.]

(b) is below the age of <sup>4</sup>[seventy] years.

(4) A person may be appointed as an <sup>5</sup>[Technical Member] of the Appellate Tribunal if the person is an officer of the SRB/FBR equivalent in rank to that of:--

(a) a Commissioner (Appeals) SRB/FBR having at least

1. Substituted for the word "accountant" by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115.

2. Clause (a) substituted by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357. At the time of substitution Clause (a) was as under:--

"(a) is qualified to be a Judge of High Court and has remained a Judge of the District court for at least 5 years,"

3. The word "who" omitted by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115.

4. Substituted for the word "sixty-five" by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115.

5. Substituted for words "Accountant Member" by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357.

- three years experience as Commissioner SRB; or
- (b) a Commissioner SRB/FBR having at least five years experience as Commissioner SRB; and
- (c) is below the age of <sup>1</sup>[seventy] years;
- (5) Notwithstanding anything contained in sub-section (4), the Government may, for <sup>2</sup>[five years] from the day this Act comes into effect, appoint any person who has worked for a minimum of three years:--
- (i) in the Federal Board of Revenue or Provincial Excise and Taxation Department in the rank not below the Bs. 20 for 5 years in aggregate, or
- (ii) as Collector of Sales Tax (Appeals) under sub-section (b) of section 30 of the Sales Tax Act, 1990, for 3 years with service of at least 5 years in Bs. 20, as an <sup>3</sup>[Technical Member] of the Appellate Tribunal.
- (6) The Government shall appoint a member of the Appellate Tribunal as Chairperson of the Tribunal and, except in special circumstances, the person appointed should be a judicial member.

<sup>4</sup>[(6A) \* \* \*]

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1. Substituted for the word "sixty-five" by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115.
  2. Substituted for the words "three years" by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357.
  3. Substituted for words "Accountant Member" by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357.
  4. Sub-section (6A) omitted by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115. At the time of omission sub-section (6A) was as under:--

<sup>a</sup>[(6A) Notwithstanding anything contained in this section or in sections 61 and 62 and till such time that an Appellate Tribunal is established under this Act, the appeals under section 61 shall be heard and decided and the functions of the Appellate Tribunal shall be exercised by a bench comprising of at least two Members, as defined in clause (h) of section 2 of the Sindh Revenue Board Act, 2010 (Sindh Act No. XI of



(7) The powers and functions of the Appellate Tribunal shall be exercised and discharged by Benches constituted from members of the Tribunal by the Chairperson of the Tribunal.

(8) Subject to sub-section (7), a Bench shall consist of not less than two members of the Appellate Tribunal and shall be constituted so as to contain an equal number of judicial and [technical] members, or so that the number of members of one class does not exceed the number of members of the other class by more than one.

(9) The Government may, by notification in the official Gazette, direct that all or any of the powers of the Appellate Tribunal shall be exercised by:--

- (i) any one member; or
- (ii) more members than one, jointly or severally.

(10) Notwithstanding anything contained in sub-sections (7) and (8), the Chairperson may constitute as many Benches consisting of a single member as he may deem necessary to hear such cases or class of cases as the Government may by order in writing, specify.

(11) The Chairperson or other member of the Appellate Tribunal authorized, in this behalf by the Chairperson may, sitting singly, dispose of any case where the amount of tax or penalty involved does not exceed five million rupees.

(12) Subject to sub-section (10), if the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(13) If the members of a Bench are equally divided on a

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2010). In case of difference of opinion between the two Members deciding the appeal, the case shall be decided by the Chairman of the Board, acting as the referee Member of the bench.]”

<sup>a</sup> Sub-section (6A) inserted by the Sindh Finance Act, 2013 (XLI of 2013), (Assented on: 11th July, 2013), reported as PTCL 2014 BS. 332.

<sup>1.</sup> Substituted for the word “accountant” by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115.

point, they shall state the point on which they differ and the case shall be referred by the Chairperson for hearing on that point to one or more other members of the Appellate Tribunal, and the point shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case including those who first heard it.

(14) If there are an equal number of members on the Appellate Tribunal, the Government may appoint an additional member for the purpose of deciding the case on which there is a difference of opinion.

(15) Subject to this Act the Appellate Tribunal shall have the power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions including the places at which the Benches shall hold their sittings.

**61. Appeal to the Appellate Tribunal.--**(1) Where the taxpayer or the officer of the SRB objects to any order passed by <sup>1</sup>[the Commissioner under section 55 or by the Board under section 56 or by] the Commissioner (Appeals) SRB, including an order under sub-section (4) of Section 58, the taxpayer <sup>2</sup>[or the officer may] appeal to the Appellate Tribunal against such order.

(2) An appeal under sub-section (1) shall be--

(a) in the prescribed form;

(b) verified in the prescribed manner;

<sup>3</sup>[(bb) accompanied by a Letter of Authorization, as

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1. The words and figures inserted by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357.

2. Substituted for the words "or officer may" by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115.

3. Clause (bb) substituted by the Sindh Finance Act, 2015 (XXXVI of 2015), (Assented on: 10th July, 2015), reported as PTCL 2015 BS. 115. At the time of substitution Clause (bb) was as under:--

<sup>a</sup>[(bb) in case the appellant desires to be heard through an agent or authorized representative in terms of section 67 or section 70, be accompanied by a Letter



prescribed, in case the appellant desires to be heard through an agent or authorized representative in terms of section 67 or section 70;]

(c) accompanied, except in case of an appeal preferred by an officer of the SRB, by the fee specified in sub-section (3); and

(d) preferred to the Appellate Tribunal within sixty days of the date of service of order of the [Commissioner or the Board or] Commissioner (Appeals) SRB on the taxpayer or the officer of the SRB, as the case may be.

(3) The prescribed fee shall be two thousand rupees.

(4) The Appellate Tribunal may, upon application in writing, admit an appeal after the expiration of the period specified in clause (d) of sub-section (2) if it is satisfied that the person appealing was prevented by sufficient cause from filing the appeal within that period.

**62. Disposal of appeals by the Appellate Tribunal.--**(1) The Appellate Tribunal may, before disposing of an appeal, call for such particulars as it may require in respect of the matters arising on the appeal or cause further inquiry to be made by the officer of the SRB.

(2) The Appellate Tribunal shall afford an opportunity of being heard to the parties to the appeal and, in case of default by any of the parties on the date of hearing, the Tribunal may, if it deems fit, dismiss the appeal in default, or may proceed *ex parte* to decide the appeal on the basis of the available record.

(3) The Appellate Tribunal shall decide the appeal

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of Authorization as prescribed;]"

Clause (bb) added by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357.

The words inserted by the Sindh Finance Act, 2014 (XVII of 2014), (Assented on: 7th July, 2014), reported as PTCL 2014 BS. 357.

within six months of its filing.

(4) The Appellate Tribunal may stay the recovery of any sales tax due by virtue of the decision or order being appealed against and any such order made by the '[Appellate Tribunal shall] remain operative for no more than thirty days during which period a notice shall be issued to the respondent and after hearing the parties, the order staying recovery may be confirmed, varied or vacated as the Appellate Tribunal deems fit but the stay order so confirmed or varied shall remain operative for no more than ninety days, including any period for which the recovery may have been stayed prior to the confirmation or variation of the stay order.

(5) In deciding the appeal, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (2), make an order to--

(a) affirm, modify or annul the order being appealed against; or

(b) remand the case to the officer of the SRB or the Commissioner (Appeals) SRB for making such inquiry or taking such action as the Tribunal may direct.

(6) The Appellate Tribunal shall not increase the amount of any tax payable, penalty or default surcharge unless the taxpayer has been given a reasonable opportunity of showing cause against such increase.

(7) The Appellate Tribunal shall communicate its order to the taxpayer and the concerned officer of the SRB.

(8) Save as provided in section 63, the decision of the Appellate Tribunal on an appeal shall be final.