IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Agha Faisal
Mr. Justice Dr. Shah Nawaz Memon

Spl. Sales Tax Reference Application No. 180 of 2018

M/s. Apna TV Channel (Pvt.) Ltd.
Versus
The Commissioner (Appeals), SRB & others

Date of hearing:	05.11.2026
Date of judgment:	11.11.2026
Applicant:	Through Mr. Taimoor Ahmed Qureshi, Advocate.
Respondents:	Through Mr. Shamshad Ahmad Narejo, Advocate.

J U D G M E N T

DR. SHAH NAWAZ MEMON, J.: — This reference under section 63 of the Sindh Sales Tax on Services Act, 2011 ("the Act, 2011") arises out of the order dated 21.05.2018 passed by the learned Appellate Tribunal, Sindh Revenue Board ("the Tribunal") in Appeal No. AT-39/2014. It raises two points. The first is whether a television channel which telecasts public service messages for a fee provides the taxable service of advertisement on television. The second is whether, in the tax periods in question, the tax on that service was payable by the channel or by those who bought its airtime.

I. FACTS OF THE CASE

2. The applicant is a private limited company which operates a television channel from Karachi. It is registered with the Sindh Revenue Board and provides advertisement services falling under tariff heading 9802.1000 of the Second Schedule to the Act, 2011. On a desk audit of its returns, the Assistant Commissioner, by Order-in-Original No. 75 of 2013 dated 08.05.2013, assessed sales tax of Rs. 4,248,876 together with default surcharge and a penalty of Rs. 212,444. The tax so assessed fell under three heads. The first, Rs. 1,452,341, related to services on which the applicant had shown the tax in its returns as withheld by its clients, who were declared against a dummy registration number (9999997-8) and who, in the officer's view, were not withholding agents under the withholding rules then in force. The second, Rs. 532,493 and Rs. 2,157,375, related to services which the applicant had itself declared as exempt. The third, Rs. 106,607, was tax charged but not paid.

3. The applicant's first appeal was dismissed by the Commissioner (Appeals) through Order-in-Appeal No. 12 of 2014 dated 12.02.2014. In second appeal, the Tribunal maintained the assessment save to the extent of amounts reconciled before it, which included Rs. 328,372 shown to have been paid

against the services provided to the Federal Board of Revenue. On the points now raised, the Tribunal held that public service messages telecast against consideration are advertisements on television and attract tax; that neither the Act, 2011 nor the rules make the taxability of the service depend on the contents of the advertisement; that the exemption claimed for advertisements financed under grants-in-aid had not been substantiated; and that, the clients concerned not being withholding agents for advertisement services and no proof of the claimed withholding having been produced, the liability rested with the applicant as provider of the service. The Tribunal also offered relief from penalty if the outstanding tax was deposited within thirty days, and recommended that the Board consider waiving part of the default surcharge, as the demand arose in the opening years of the new law.

II. THE QUESTIONS PROPOSED

4. The applicant has proposed the following questions of law:

> *A. Whether under the facts and circumstances of the case the learned Tribunal was justified to hold that the public service messages aired on TV channel, for consideration, were economic activity for the purpose of taxable services as defined in section 3 of the SSTS Act, 2011?*
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> *B. Whether the determination reached by the learned Tribunal to the effect that the liability to pay tax in respect of advertising services rests with the service provider and not the service recipient is in clear violation of section 9(3) read with section 13 of the Act and Rule 1(2)(f) and Rule 3(4) of the Sindh Sales Tax Special Procedure (Withholding) Rules, 2011?*

III. SUBMISSIONS

5. Mr. Taimoor Ahmed Qureshi, learned counsel for the applicant, contended that the applicant had telecast public service messages, which are exempt from tax. He submitted that the Act, 2011, in the tax periods in question, contained no definition of advertisement service, so that the applicant did not fall within the charging provision, and that the department had erroneously charged the tax by reading section 3 with tariff heading 9802.1000 of the Second Schedule. When asked whether any provision of the Act, 2011 distinguishes one advertisement service from another by its nature, learned counsel reiterated that the applicant had telecast public service messages and that these were exempt. He further contended that a public service message is not an economic activity within the meaning of the Act, 2011. On being asked whether the applicant had charged fees for airing the messages, learned counsel answered in the affirmative, but maintained that, in either case, the messages were exempt, having been issued for public purposes. He also pointed out that section 4 of the Act, 2011 was amended by the Sindh Finance Act, 2014. In

support, learned counsel relied upon *ICICI Bank*[1] and *Pakistan Broadcasters Association*.[2] The second question, as to the person liable, rests on the memorandum of reference, where it is contended that under section 9(3) and section 13 of the Act, 2011, read with the withholding rules, the obligation to deposit the tax on advertisement services lay on the recipients of the service and not on the applicant.

6. Mr. Shamshad Ahmad Narejo, learned counsel for the respondents, submitted that the responsibility to pay the tax is that of the provider of the service, and that the law on the point is clear. The service was not provided free, and the applicant's omission to charge tax to its clients is of no consequence, since it was bound to follow the law. Referring to page 41 of the file, being the Order-in-Original, he submitted that under the withholding rules the liability was not that of the recipients but of the applicant as provider of the service, the recipients concerned not being withholding agents.

IV. THE SCOPE OF THE REFERENCE

7. What comes before us under section 63 of the Act, 2011 is a question of law arising out of the order of the Tribunal. The Tribunal is the final fact-finding forum, and its findings of fact are to be taken as recorded unless a question is raised, and made out, that there was no evidence on which they could be reached or that the Tribunal misdirected itself in law.[3] No such question is proposed here. Whether a particular client was registered, whether tax was in fact deducted from the applicant and deposited with the Government, and whether a particular campaign was financed under a grant-in-aid agreement, are questions of fact on which the Tribunal has recorded its findings. We proceed on those findings.

V. THE STATUTORY FRAMEWORK

8. The tax periods in question preceded the Sindh Finance Act, 2013, which substituted sections 2 and 13 of the Act, 2011, and the Sindh Finance Act, 2014, which amended section 4. The provisions are therefore to be read as they then stood. Section 3(1) then read:

"3. Taxable Service.--(1) A taxable service is a service listed in the Second Schedule to this Act, which is provided:--

(a) by a registered person from his registered office or place of business in Sindh;

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[1] *ICICI Bank Ltd. and another v. Municipal Corporation of Greater Bombay and others* [2006 (1) ALL MR 6 (SC)].
[2] *Pakistan Broadcasters Association and others v. Pakistan* [PLD 2016 SC 692].
[3] *Johri* [1993 SCMR 287]; *Qadbros Engineering* [2023 SCMR 939]; *Abdul Karim* [2025 SCMR 969].

> (b) in the course of an economic activity, including in the commencement or termination of the activity.
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> Explanation.--This sub-section deals with services provided by registered persons, regardless of whether those services are provided to resident persons or non-resident persons."

9. Section 4(1), defining economic activity, then read:

> "4. Economic activity.--(1) An economic activity means any activity carried on continuously or regularly by a person that involves or is intended to involve the provision of services to another person and includes--
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> (a) an activity carried on in the form of a business, including a profession, calling, trade or undertaking of any kind, whether or not the activity is undertaken for profit;
>
> . . ."

10. The tax is charged under section 8(1)[4] on the value of a taxable service at the rate specified in the Schedule in which the service is listed. The entry with which we are concerned is:

> "98.02 Advertisement
>
> 9802.1000 Advertisement on T.V."

11. As to the person liable, section 9 then provided:

> "9. Person liable to pay tax.--(1) Where a service is taxable by virtue of sub-section (1) of section 3, the liability to pay the tax shall be on the registered person providing the service.
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> (2) Where a service is taxable by virtue of sub-section (2) of section 3, the liability to pay the tax shall be on the person receiving the service.
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> (3) Notwithstanding anything contained in sub-sections (1) and (2), the Government may, by a notification in the official Gazette, specify the services or class of services in respect of which the liability to pay tax shall be on the person providing the taxable service, or the person receiving the taxable service or any other person."

12. The Sindh Sales Tax Special Procedure (Withholding) Rules, 2011 ("the Withholding Rules, 2011"), made under section 13[5], provided in rule 1(2) and rule 3, so far as relevant, as follows:[6]

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[4]Section 8(1), as it then read: "(1) Subject to the provisions of this Act, there shall be charged, levied and collected a tax known as sales tax on the value of a taxable service at the rate specified in the Schedule in which the taxable service is listed."

[5]Section 13, as it then read: "13. Special procedures.--Notwithstanding anything contained in this Act, the Board may, by notification in the official Gazette prescribe a special procedure for the payment of tax, registration, book keeping and invoicing requirements and returns in respect of such taxable services as may be specified therein." The memorandum of reference reproduces section 13 as substituted by the Sindh Finance Act, 2013, which came after the tax periods in question.

[6]As reproduced in the memorandum of reference; the Tribunal reproduced clause (f) in substantially the same words. The memorandum describes the operative sub-rule as rule 3(4) in the question proposed and as rule 3(5) in the statement of facts; nothing turns on the numbering. The Withholding Rules, 2011 were later succeeded by the Sindh Sales Tax Special Procedure (Withholding) Rules, 2014, notified on 01.07.2014.

> "1. (2) They shall apply to taxable services as are supplied, provided or rendered to following persons, hereby specified as withholding agents, for the purposes of deduction and deposit of tax, namely.-
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> (a) Offices and departments of Federal Government, Provincial Governments, and Local or District Governments;
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> . . .
>
> (f) FBR-registered or SRB-registered persons receiving the services of advertisements."
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> "3. . . . A person mentioned in clause (f) of sub-rule (2) of rule 1, who receives advertisement services . . . provided or rendered by a person registered with SRB . . . shall deduct the amount of sales tax as mentioned in the invoice or the bill issued by the service provider, from the payment due to the service provider. In case the sales tax amount is not indicated on the invoice, the recipient shall deduct sales tax at the applicable rate of tax . . . from the payment made or to be made to the service provider."

VI. THE FIRST QUESTION: PUBLIC SERVICE MESSAGES AND THE TAXABLE SERVICE

13. Under section 3(1), a service is taxable when three things concur: it is listed in the Second Schedule, it is provided by a registered person from his office or place of business in Sindh, and it is provided in the course of an economic activity.[7] The second element is not in dispute. The controversy is over the first and the third.

14. The entry describes the service by its medium: advertisement on television. The service is the applicant's. It consists in making the applicant's airtime available to a client and telecasting, for a consideration, the message which that client wishes to convey to the viewing public. Nothing in section 3, in section 8 or in the entry makes the taxability of that service depend on what the message says, on who sponsors it, or on the purpose for which the sponsor wishes it to be seen. Learned counsel, when asked, was unable to point to any provision drawing such a distinction, and we have found none.

15. It is correct that, in the tax periods in question, section 2 of the Act, 2011 carried no definition of advertisement; one was introduced only when section 2 was substituted in 2013.[8] The absence of a definition, however, does not take a listed service outside the charge. It means only that the word bears its natural and ordinary meaning, in the context in which it is used.[9] In ordinary usage, advertisement is not confined to the promotion of goods for sale. It

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[7] *Quick Food Industries* [2023 SCMR 1776], para 8, as reproduced in *GB Security Services* [2025 PTD 1159], para 6.

[8] Section 2(2), in section 2 as substituted by the Sindh Finance Act, 2013, until its omission by the Sindh Finance Act, 2025: "(2) "advertisement" includes a notice, circular, label, wrapper, document, banner, hoarding, billboard, or any other audio or visual representation made or displayed by any means including print media, electronic media, telecommunication media, light, paint, colouration, sound, smoke or gas, or otherwise;"

[9] *ICICI Bank* (n 1), para 17.

extends to public notices meant to inform the public or to change its attitudes and behaviour, and the same methods are used, as the dictionaries record, to encourage people to drive safely or to support charities.[10] The law under which the applicant broadcasts is to the same effect: it defines an advertisement as a set of visual and audio messages for the projection of a product, service or idea.[11] A message urging the public to guard against dengue, or carrying a notice of a Government department, projects an idea to the viewer. When a channel is paid to air it, the channel provides advertisement on television in the ordinary sense of those words. We do not rest on the definition introduced in 2013, which came after the periods in question; we note only that it, too, drew no distinction according to the content of the message.

16. The two decisions relied upon by learned counsel for the applicant do not, with respect, carry the case further. In *ICICI Bank*, the question was whether illuminated signboards displayed by a bank over its own automated teller machine centres were advertisements requiring the permission of the municipal authority under the law of that city regulating the display of signboards. The Supreme Court of India collected the dictionary meanings of the word, including those noticed above, and held that its meaning is to be gathered from the context in which it is used; it was in the context of that regulatory provision that the presence of a commercial or business interest was treated as the test.[12] The context here is different. The entry taxes the service of a channel which, for a fee, telecasts the message of another person. That is advertisement on television in any ordinary sense of the word, and the approach of *ICICI Bank*, which is to read the word in its own context, supports this reading rather than the applicant's. In *Pakistan Broadcasters Association*, the Supreme Court upheld a rule limiting the length of advertisement breaks on television.[13] Paragraph 13 of that judgment, on which reliance was placed, distinguishes core speech, which propagates social, political or economic ideas, from commercial speech restricted to the promotion of sales, and does so for the purpose of the degree of constitutional protection each receives. That distinction concerns the measure of protection for the content of speech; it says nothing of the taxability of the service of broadcasting it. The Supreme

[10]The definitions collected in *ICICI Bank* (n 1), para 15, include, from The Chambers Dictionary, "a public notice with the purpose of informing and/or changing public attitudes and behaviour", and, from The New Encyclopaedia Britannica, that while most advertising promotes a good for sale, "similar methods are used to encourage people to drive safely, to support various charities, or to vote for political candidates".

[11]Pakistan Electronic Media Regulatory Authority Ordinance, 2002, section 2(a): "(a) "advertisement" means a set of visual and audio messages for the projection of a product, service, or idea with the object of propagating sale, purchase or hire of the product, service or idea for creating other related effects;"

[12]*ICICI Bank* (n 1), paras 6, 17 and 18.

[13]Rule 15(3) of the Pakistan Electronic Media Regulatory Rules, 2009, as reproduced in *Pakistan Broadcasters Association* (n 2), para 21: "(3) During a regular programme a continuous break for advertising shall not exceed three minutes and duration between two such successive breaks shall not be less than fifteen minutes."

Court itself observed that the rule regulating advertisement breaks did not relate to the content of any broadcast, commercial or otherwise.[14] The taxing entry is of the same character: it looks at the service, not at the content. Indeed, the submissions recorded in that judgment proceed on the footing that private channels carry public service messages within their advertisement time, and that public bodies pay for their advertisements.[15]

17. As to economic activity, section 4 looks at the activity of the person who provides the service, and not at the motive of the person who receives it.[16] The applicant's activity is the running of a commercial television channel, in which airtime is sold to clients and their messages are telecast against invoices. That activity is carried on continuously and regularly, in the form of a business, and learned counsel accepted that fees were charged for the very messages in question. Clause (a) of section 4(1) brings an activity within the definition whether or not it is undertaken for profit; the public or charitable purpose of a sponsor goes to the sponsor's reasons for buying airtime, not to the character of the applicant's activity in selling it. The service is rendered by one person to another for consideration, and nothing in it resembles the exclusion of services rendered to oneself.[17] The amendment of 2014, on which learned counsel relied, omitted the words "continuously or regularly" from section 4(1).[18] It widened the definition; it did not narrow it, and the applicant's activity met even the narrower test that applied before it. Nothing therefore turns on it.

18. An exemption does not arise by implication from the worthiness of the message. Exemptions under the Act, 2011 are granted by notification under section 10.[19] No notification exempting public service messages has been shown. The only notification relied upon below exempted advertisements financed out of funds provided under grant-in-aid agreements.[20] That exemption turns on the source of the funds, not on the nature of the message, and whether it was available on the facts was decided by the Tribunal against the applicant; it is not the subject of any question before us. The existence of a

[14] *Pakistan Broadcasters Association* (n 2), para 21.

[15] *Pakistan Broadcasters Association* (n 2), para 6.

[16] *Quick Food Industries* (n 7), para 8; *GB Security Services* (n 7), para 6.

[17] Contrast *Karachi Golf Club* [2021 PTD 558], paras 31 and 34, where services rendered by a members' club to its members were held to fall outside economic activity for want of commerciality and because of the identity between provider and recipient.

[18] The words "continuously or regularly" were omitted from section 4(1) by the Sindh Finance Act, 2014.

[19] Section 10(1), as it stood before its substitution by the Sindh Finance Act, 2025: "10. Exemptions.--(1) Notwithstanding the provisions of section 8, the Board, may, with the approval of the Government and subject to such conditions and restrictions as it may impose, by notification in the official Gazette:--(a) exempt any taxable service from the whole or any part of the tax chargeable under this Act; (b) exempt any taxable service provided by a specific person or a class of persons from the whole or any part of the tax chargeable under this Act; (c) exempt any recipient of services or class of such recipients, including international organizations and institutions, from the payment of the whole or any part of the tax payable under this Act; and (d) exempt any person or class of persons from the whole or any part of the tax chargeable under this Act."

[20] Serial No. 2 of Notification No. SRB.Leg(1)/2011 dated 01.07.2011, as recorded by the Tribunal: "Advertisement financed out of funds provided under grant in aid agreements", against the respective subheadings of heading 98.02.

narrowly drawn exemption for one class of donor-funded advertisements indicates that, without such a provision, advertisements of a public or social character remain within the entry. The Tribunal also noticed that the corresponding Punjab statute excludes certain public service messages in express words, whereas the Act, 2011 contained no such exclusion.

19. Nor does it matter that some of the clients were departments of Government. A Federal or Provincial Government is a person under the Act, 2011,[21] and the Withholding Rules, 2011 themselves list offices and departments of Government among withholding agents, which presupposes that taxable services provided to Government attract the tax. Learned counsel for the respondents is right, too, that the tax is on the provision of the service. The liability does not depend on whether the provider chose to pass it on to its client, and an omission to charge it does not reduce what is due.

20. The first question is, accordingly, to be answered in the affirmative. The Tribunal was justified in holding that the public service messages aired by the applicant for consideration were provided in the course of an economic activity, and constituted the taxable service of advertisement on television under section 3(1) read with tariff heading 9802.1000.

VII. THE SECOND QUESTION: ON WHOM THE LIABILITY LAY

21. Section 9(1) placed the liability to pay the tax on a service taxable under section 3(1) on the registered person providing the service.[22] Section 9(3) enabled the liability to be placed, by notification, on the recipient of the service or on any other person. The applicant's case is that the Withholding Rules, 2011 did so for advertisement services.

22. The words of the Rules do not bear that reading. Rule 1(2) specifies the persons named in it as withholding agents "for the purposes of deduction and deposit of tax". For advertisement services, the class is that in clause (f), namely FBR-registered or SRB-registered persons receiving those services. Rule 3 then requires such a person to deduct the tax "from the payment due to the service provider". Two consequences follow. First, the Rules operate only where the recipient falls within the class specified; where it does not, section 9(1) applies unaltered. Second, where the Rules do apply, they work by deduction at source from the consideration due to the provider and its deposit with the Government. They do not declare that the provider ceases to be liable. The tax remains the tax on the provider's service, collected through the

[21]Section 2(27), as it then read: "(27) "person" means,-- (a) an individual; (b) a company or association of persons incorporated, formed, organized or established in Pakistan or elsewhere; (c) the Federal Government; (d) a Provincial Government; (e) a local authority in Pakistan; or (f) a foreign government, a political subdivision of a foreign government, or public international organization;"

[22]*OGDCL* [2021 PTD 1124], paras 12 and 13.

recipient.[23] The provider is discharged to the extent that the tax is in fact deducted and deposited, since the same tax cannot be recovered twice; but tax that has been neither deducted nor deposited remains the provider's liability under section 9(1). This reading is borne out by the later history of the statute. In the tax periods in question, the Act, 2011 contained no provision making a withholding agent who failed to deduct or deposit the tax personally liable for it; that liability was introduced only in 2019, by section 13(3).[24] The applicant's reading, which would relieve the provider even where nothing was deducted or deposited, finds no support in the words of the Rules.

23. On the facts as found by the Tribunal, the question admits of only one answer. The clients under the first head had been declared by the applicant against a dummy registration number. The Tribunal found that they did not fall within clause (f), and that no proof had been produced of the withholding said to have been made by the Benazir Income Support Programme and the Government of Sindh; where payment was shown, as for the Federal Board of Revenue, credit was given. Under the second head, the applicant had itself treated the services as exempt and charged no tax, and nothing on the record shows that any tax was deducted from it. On those findings, the liability lay where section 9(1) placed it. The Order-in-Original, to which learned counsel for the respondents referred, proceeds on exactly this footing. It follows, as the Tribunal itself recognised in allowing credit for the amount paid against the Federal Board of Revenue, that any amount shown by evidence of deposit in the Government account to have been deducted by a client against these very invoices goes in reduction of the demand.

24. The second question is, accordingly, to be answered in the negative. The Tribunal's determination that the liability rested with the applicant as provider of the service is in accordance with section 9 of the Act, 2011 and the Withholding Rules, 2011.

VIII. THE ANSWERS TO THE QUESTIONS

25. The questions proposed are answered as follows:

> *Question A: In the affirmative, against the applicant and in favour of the respondents.*
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> *Question B: In the negative, against the applicant and in favour of the respondents.*

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[23] *PTCL* [2025 PTD 1838], paras 14 and 18, construing the corresponding withholding scheme under the Khyber Pakhtunkhwa Finance Act, 2013.

[24] Section 13(3), added by the Sindh Finance Act, 2019: "(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 and the default surcharge thereon in the prescribed manner."

IX. ORDER

26. The reference application is answered in the above terms and is dismissed.

27. A copy of this judgment under the seal of this Court and the signature of the Registrar shall be sent to the learned Appellate Tribunal, Sindh Revenue Board, in terms of section 63(5) of the Act, 2011.

J U D G E

J U D G E

Karachi,
Dated: 11th day of November, 2026