

**KHYBER PAKHTUNKHWA APPELLATE TRIBUNAL
(SALES TAX ON SERVICES) RULES, 2024**

Notification No. [.], dated [.]-- In exercise of the powers conferred under section 28 of the Khyber Pakhtunkhwa Revenue Authority Act, 2022 (Act No. XVIII of 2022), the Government of Khyber Pakhtunkhwa is pleased to make the following rules:

1. Short title, extent and commencement.— (1) These rules may be cited as the Khyber Pakhtunkhwa Appellate Tribunal (Sales Tax on Services) Rules, 2024.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules, unless there is anything repugnant to the subject or context, —

- (a) “Act” means the Khyber Pakhtunkhwa Revenue Authority Act, 2022 (Act No. XVIII of 2022);
- (b) “Appellate Tribunal” means the Appellate Tribunal, established under section 11 of the Act;
- (c) “Authority” means the Khyber Pakhtunkhwa Revenue Authority, established under section 3 of the Act;
- (d) “authorized representative” means a person duly authorized by the taxpayer under section 79 of the Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022) to appear, plead and act on his behalf before the Appellate Tribunal;
- (e) “Bench” means a Bench of the Appellate Tribunal constituted under sub-section (7) of section 11 of the Act;
- (f) “Chairperson” means the Chairperson of the Appellate Tribunal appointed under section 11 of the Act;
- (g) “Form” means a form prescribed and appended under these rules; and
- (h) “member” means a member of the Appellate Tribunal, including, a judicial and technical member;

- (i) “Registrar” means the person who performs the functions of the Registrar of the Appellate Tribunal, as assigned by the Chairperson and also includes the Deputy Registrar, the Assistant Registrar or any other person so authorized by the Chairperson.

(2) Any expression or term used but not defined in these rules shall have the same meaning as provided under the Act, Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022).

3. Seal and Notice of the Appellate Tribunal.— (1) There shall be a seal of the Appellate Tribunal on which shall be inscribed its name and insignia.

(2) The seal shall remain in the custody of the Registrar or such other officer as the Chairperson may direct and shall be affixed on every order passed by the Appellate Tribunal.

(3) Every notice shall be signed by the Registrar or any other officer of the Appellate Tribunal authorized by the Chairperson in this behalf and shall bear the seal of the Tribunal.

4. Composition of Benches.— (1) 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 so that the number of members of one class does not exceed the number of members of the other class by more than one:

Provided that in exceptional circumstances, the Chairperson may constitute Benches consisting of two or more judicial members or two or more technical members, as the case may be, for the reasons to be recorded in writing;

Provided further that in any case where the amount of tax or default surcharge or penalty involved does not exceed two and a half million rupees, the Chairperson may also constitute as many Single Benches as he deems necessary for expeditious disposal of appeals.

(2) In case of a split decision between the members of a Division Bench, the matter shall be sent to the Chairperson to either act as a referee judge or nominate any other referee judge for final decision by way of majority, as the case may be.

5. Sittings of Benches.— The Benches shall hold sittings at its headquarter in Peshawar or at such other places in the Province of Khyber Pakhtunkhwa as the Chairperson may consider expedient.

6. Language of the Appellate Tribunal.— The language of the Appellate Tribunal shall be Urdu or English.

7. Office hours and holidays.— The Tribunal shall, subject to any special order of

the Chairperson observe the same office hours, holidays and period of recess as the Government observes.

8. Case Management.— (1) A Bench shall hear and dispose of such appeals and applications as are assigned by the Chairperson or any member authorized by the Chairperson in this behalf.

(2) In the absence of Chairperson and the member designated for the purpose, the senior member may transfer an appeal or an application from one Bench to another Bench.

9. Procedure for filing appeals.— (1) A memorandum of appeal to the Appellate Tribunal shall be:

- (a) Filed and verified on Form AT-1; and
- (b) Presented to the Registrar in person, filed online on Authority's computerized system, or sent through registered post or courier service:

Provided that a memorandum of appeal filed online or sent by post or courier under clause (b) shall be deemed to have been presented to the Registrar on the date of its receipt at the office of the Registrar.

(2) On receipt of an appeal, the Registrar shall ensure that the appeal has been filed in accordance with the provisions of Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022) and the manner prescribed under these rules.

10. Defective appeals etc.— (1) Where a memorandum of appeal is not filed in the manner prescribed under these rules, the Registrar may, through office objection(s) in writing, require the appellant or his authorized representative, if any, to remove the same within such time, not exceeding fifteen days, as he may specify:

Provided that if an office objection is not removed by the appellant within the time frame provided by the Registrar and the limitation period for filing of an appeal expires in the meantime, the appeal shall be treated as becoming time-barred, unless the delay is condoned by the Appellate Tribunal under sub-section (4) of section 69 of the Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022).

(2) Where the appellant is contesting an office objection for being inapplicable or erroneous, the Registrar shall place the matter before the Bench as an objection case to determine whether an objection is liable to be overruled or sustained.

11. Registration of appeals.— The Registrar shall endorse on the front page of every memorandum of appeal the date on which it is presented, sign the endorsement and the appeal so endorsed shall be entered in a register to be kept for this purpose.

12. Who may be joined as respondent.— Where an appeal is lodged by the taxpayer, the Khyber Pakhtunkhwa Revenue Authority through its Director General and its respective Collector shall be arrayed as the respondents in the appeal and in any other case, the taxpayer or person in whose favour an order has been passed, shall be made a respondent to the appeal:

Provided that no appeal shall lie against an order which is not appealable to the Appellate Tribunal under sub-section (1) of section 69 of the Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022) or any other legal provision for the time being in force.

13. Contents and format of memorandum of appeal and applications.— (1) Every memorandum of appeal or application shall be typed in Urdu or English on one side of the legal paper.

(2) A memorandum of appeal shall set forth concisely under distinct heads, the specific grounds of appeal and such grounds shall be numbered consecutively.

(3) A miscellaneous application, including a stay application against recovery of tax shall be supported with a duly sworn affidavit and contain the following particulars:

- (a) Brief facts regarding the demand of tax, recovery of which is sought to be stayed;
- (b) The remaining amount of due tax;
- (c) The date of filing of appeal before the Appellate Tribunal and its number, if known;
- (d) Whether any application for stay was made to the revenue authorities or the Appellate Tribunal and, if so, the result thereof and copies of such order; and
- (e) Reasons in brief for seeking stay.

(4) An application which does not conform to the requirements stipulated under sub-rule (3) may be summarily rejected by the Appellate Tribunal *in limine*.

(5) On receipt of stay application, the Registrar shall fix the application for hearing as early as possible.

(6) The Bench which heard the appeal giving rise to the application shall hear it unless otherwise directed by the Chairperson.

14. Documents to accompany memorandum of appeal.— (1) Every memorandum of appeal shall be in triplicate and shall be accompanied by three clear and legible copies of:

- (a) Impugned order (certified copy of order appealed against);
- (b) Grounds of first appeal, if any;
- (c) Show cause notice, if any;
- (d) Proof of payment of appeal fee as specified under sub-section (3) of section 69 of the Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022); and
- (e) Proof of intimation notice for filing of appeal to the respondent under rule 15 of these rules.

(2) The memorandum of appeal shall be supported by a certificate showing the date of communication of the impugned order and such other particulars as stated on the Form.

(3) The Tribunal may, in its discretion, accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in this rule.

(4) The appellant shall place an index on the face of the memorandum of appeal, showing the documents annexed with the appeal along with reference to their dates and page numbering.

15. Intimation of filing of appeal or application to the respondents.— The appellant or applicant shall before filing of appeal or application send a copy of the memorandum and grounds of appeal or application to the respondent(s) through registered post or courier and a proof of its service along with a certificate to this effect shall be appended with the appeal or application.

16. Grounds which may be taken in appeal.— The appellant shall not, except by prior permission of the Appellate Tribunal in writing, be allowed to raise or argue an additional ground not set forth in the memorandum of appeal:

Provided that the Appellate Tribunal shall not be confined to the grounds set forth in the memorandum of appeal or taken by its leave under this rule and may frame any additional issues relevant in the facts and circumstances of an appeal.

17. Appellant to explain delay. — Where the appellant or the applicant has not tendered, with the memorandum of appeal or application, any explanation in writing setting out the reasons for the delay, the Tribunal may allow the appellant or applicant to submit an

explanation in writing and upon sufficient cause having been shown, may admit the appeal or application for hearing.

18. Power of attorney.— (1) If the appellant or the respondent is represented by an authorized representative, a duly executed Power of Attorney in favour of such representative shall be filed before the Appellate Tribunal:

Provided that if the department is represented through a duly appointed departmental representative or the concerned officer, there shall be no need of filing a power of attorney.

(4) The departmental representative shall not be an officer below the rank of Assistant Collector:

Provided that the Director General of the Authority may appoint any other authorized officer of the Authority, to act as the departmental representative before the Appellate Tribunal.

19. Date and place of hearing of appeal and application.— The Appellate Tribunal shall notify to the parties the date and place of hearing of appeal or application in writing.

20. Preparation of cause list for hearing.— (1) For any working day a daily cause list mentioning the appeals or applications shall be prepared.

(2) A cause list for the day shall be prepared by the Bench clerk and displayed on the notice board by 2.00 p.m. on the day preceding the date of hearing.

(3) A separate cause list shall be prepared and displayed on the notice board for each Bench and for each member in case the appeal is to be heard by a single member.

21. Continuation of proceedings after the death or insolvency of a person.— Where a taxpayer or registered person dies or is adjudged insolvent or in the case of a company under liquidation, the appeal shall not abate and hearing may continue by or against the executor, administrator, successor or other legal representative of the taxpayer, assignee, receiver or liquidator, as the case may be.

22. Order of the Appellate Tribunal.— (1) The Appellate Tribunal shall have the power to pass any order as specified under section 70 of the Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (Act No. XIX of 2022);

(2) The order of the Tribunal shall be in writing and shall be signed and dated by the member or the members, as the case may be, constituting the Bench.

(3) The Appellate Tribunal shall cause its order to be communicated to the parties and to the Authority.

23. Maintenance of record.— The Appellate Tribunal shall maintain its records in such manner as may be determined from time to time.

24. Copying and inspection charges.— (1) The copying and inspection charges shall be fixed by the Appellate Tribunal at such rates as may be fixed from time to time.

25. Digitization.— (1) The Chairperson may, in consultation with the Management Committee, subject to the availability of resources, direct the Registrar to adopt such digital technologies and modern tools as may be deemed proper and necessary to promote access to justice, ease-of-doing-business and efficient case management:

(2) For the purposes of sub-section (1), the following initiatives may be taken, including —

- (a) Automated cause lists;
- (b) E-hearings; and
- (c) Online filing of appeals and accompanying applications.

26. Repeal. — (1) The material or corresponding provisions of the Khyber Pakhtunkhwa Revenue Authority Sales Tax on Services Regulations, 2017, including regulations 39, 40 and 40A are hereby repealed.

BEFORE THE KHYBER PAKHTUNKHWA APPELLATE TRIBUNAL
(SALES TAX ON SERVICES)
(Under section 69 of the Khyber Pakhtunkhwa Sales Tax on Services Act 2022)

For Official Use only: Received on _____

Appeal No. _____

In re:

....Appellant(s)

Versus

....Respondent(s)

Date and details of concerned Authority passing the Impugned Order (Attach a certified copy):

Date of Communication of the Impugned Order	Tax Period to which the Appeal relates
_____	_____

Address to which notice may be sent to the Appellant(s):

Name and Address of the Respondent(s):

Legal provisions involved in this case

Prayer in Appeal

CERTIFICATE:

Certified that:

- This is the first Appeal on the subject on behalf of the Appellant(s).
- This Appeal is competent in law and filed in the prescribed manner.

VERIFICATION

I _____ the appellant, do hereby verify on oath and declare that what is stated above is true to the best of my information, knowledge and belief.

Verified today, on this the _____ day of _____ 20

Signature of Appellant or Authorized Representative: _____

Dated: _____