

Sales Tax Limitation After Remand: Supreme Court Rejects Unlimited Re-Adjudication

The Supreme Court held that the statutory adjudication period runs afresh from remand, dismissing the tax Department's appeal against an order made years too late.

Civil Appeal No. 1693 of 2021 | 18 August 2026

By Shahbaz Shah, Advocate High Court | Published 8 October 2026

Remand starts a fresh statutory period, not unlimited time

The Supreme Court of Pakistan has held that where an order-in-original is set aside and the matter is remanded for fresh adjudication, the time prescribed under section 36(3) of the Sales Tax Act, 1990 is reckoned afresh from the date of remand. The renewed adjudication remains subject to the statutory time limit and any extension or exclusion lawfully available.

In Commissioner Inland Revenue, Legal Zone, Corporate Tax Office (CTO), Lahore v M/s Makerwal Collieries Limited, Civil Appeal No. 1693 of 2021, the fresh order was passed more than four years after remand. No lawful extension or exclusion was established. The Supreme Court dismissed the Department's appeal and upheld the conclusion that the fresh order was time-barred.

The decision is dated 18 August 2026. Justice Muhammad Shafi Siddiqui authored the order for a Bench comprising Chief Justice Yahya Afridi, Justice Siddiqui and Justice Miangul Hassan Aurangzeb. The supplied eight-page copy is approved for reporting but states no reporter citation.

The historical provision matters

The Court applied section 36(3) as it stood at the relevant time. That provision required the tax determination within 45 days of issuance of the show-cause notice, with an extension for reasons recorded in writing and an express statutory ceiling of 90 days on the extended period.

The specific conclusion in this case was that, after remand, adjudication should have occurred within 45 days because no extension had been sought or obtained. The ruling does not establish that every present-day sales-tax proceeding, under every subsequently amended provision, carries a universal 45-day deadline.

For another dispute, the applicable statutory version, nature of proceedings and lawful extensions or exclusions must be checked. The principle concerning renewed adjudication should be applied within that framework rather than detached from it.

How the Makerwal proceedings developed

The respondent faced proceedings under the Sales Tax Act, 1990. On 10 March 2001, the Appellate Tribunal set aside the original adjudication and remanded the matter. Its directions required consideration of the respondent's evidence and determination of liability relating to royalty and excise duty included in the total sale price.

Following remand, the Additional Collector Sales Tax and Federal Excise (Adjudication), Lahore issued Order-in-Original No. 303/2005 on 31 December 2005. It imposed sales tax, default surcharge and penalties. The Collector (Appeals) upheld the adjudication on merits.

The respondent then succeeded before the Tribunal on limitation. The Tribunal considered that remand reactivated the show-cause notice but could not leave the statutory period open indefinitely. It cancelled the orders below without deciding the remaining merits grounds.

The Department's Sales Tax Reference No. 4925 of 2021 was dismissed by the Lahore High Court on 26 January 2021. Its appeal to the Supreme Court raised the effect of remand on the adjudication deadline. The respondent was recorded as ex parte before the Supreme Court; the order nevertheless examined the Department's argument and the statutory scheme.

The Department's argument: no separate deadline after remand

The Department argued that the original order ceased to exist after remand and that the authority had to adjudicate afresh under the Tribunal's directions. Because the Act did not prescribe a separate period expressly labelled as a post-remand deadline, it contended that section 36(3) could not mechanically govern the fresh order.

The argument contained an important starting point but drew the wrong conclusion. Setting aside the previous adjudication required a renewed exercise of power. It did not place that power outside the statutory framework.

The Court rejected an interpretation under which remand would remove every temporal constraint. That interpretation would defeat the mandatory time limit whenever an appellate forum set an order aside and sent the case back.

Super Asia and WAK Limited: the mandatory deadline was settled

Paragraph 6 identifies the settled foundation. In *Collector of Sales Tax v Super Asia Mohammad Din & Sons*, 2017 SCMR 1427, the Supreme Court held the prescribed period mandatory and an order beyond the permissible period invalid. As described in the present order, the Court declined to enlarge the period by importing special circumstances or an unspecified reasonable time.

A five-member Larger Bench subsequently affirmed the principle in *WAK Limited Multan Road, Lahore v Collector Central Excise and Sales Tax, Lahore*, 2025 SCMR 1280. The combination of mandatory wording and an express ceiling marked a boundary that an adjudicating authority could not disregard.

The Court also explained the legislative purpose: proceedings should reach a time-bound close, and the taxpayer should not face indefinite outstanding liability. Makerwal therefore did not reopen whether section 36(3) was mandatory. It addressed the different question of how that settled limit operated after fresh adjudication was ordered on remand.

These authorities are discussed through the propositions expressly adopted in the supplied Makerwal order. This article does not claim an independent examination of their full reported judgments or add unverified facts about them.

Why the period runs afresh from the remand date

Paragraphs 8 and 9 explain the reasoning. Remand is an exercise of appellate jurisdiction that displaces the earlier adjudication to the extent directed and restores the matter for further adjudication according to law. Where the previous order is set aside and a fresh decision is required, the authority must undertake the exercise anew.

The Court attached the statutory time limit to that renewed exercise. It expressly held that the section 36(3) period was to be reckoned afresh from the date of remand, subject to lawful statutory extension or exclusion.

That answer avoids two inaccurate summaries. The Court did not say the authority must complete the new adjudication within a clock left running indefinitely from the original notice. Equally, it did not say remand grants an unlimited or judicially invented reasonable period. It recognized a fresh statutory period, with the same statutory constraints.

The holding concerns an order set aside and remanded for fresh adjudication. It should not automatically be applied to every appellate direction, such as one merely requiring implementation of an otherwise surviving order, without examining the actual terms of that direction.

Remand is corrective and should not prolong litigation

Paragraph 7 places remand in its wider procedural setting. The Court cited *The Secretary/Chairman Railways, Government of Pakistan, Ministry of Railways, Islamabad and others v Tariq Mansoor and others*, 2026 SCMR 807, on restraint, judicial economy and finality.

It also referred to *Muhammad Zubair v Mst. Raheela Gul and others*, PLJ 2026 SC 495, concerning corrective remand where a material issue remains undecided, essential evidence has not been considered or a party lacked a fair opportunity to present its case. *Messrs Shah Nawaz Khan and Sons v Government of N.-W.F.P. and others*, 2015 SCMR 945, reinforced that remand should be used only when necessary for fair adjudication.

These references explain why remand should correct a defect rather than become a source of avoidable delay. They do not independently supply a new tax deadline. The binding temporal constraint in *Makerwal* came from section 36(3) and its application to the renewed adjudication.

As with the tax authorities above, the descriptions are confined to the propositions reproduced in the present order, rather than an unverified account of each cited case's complete facts.

Why the 2005 order was invalid

The remand date was 10 March 2001. The fresh order was dated 31 December 2005. Paragraph 10 calculates the intervening period as four years, nine months and twenty-one days and records that no extension was sought or obtained.

The Court held that the matter ought to have been adjudicated within 45 days of the remand order. Paragraph 12 found nothing establishing a lawful extension or exclusion capable of saving the delayed order. Even on the fresh-clock approach, the adjudication was plainly out of time.

The Supreme Court therefore upheld the Tribunal's limitation conclusion and found no legal infirmity in the High Court's dismissal of the Department's reference. The appeal was dismissed.

What the ruling did not decide

The original remand involved evidence and liability concerning royalty and excise duty included in the sale price. The fresh adjudication also involved allegations of undervaluation. The Supreme Court did not determine those substantive tax questions in this order.

It would be inaccurate to cite *Makerwal* as deciding that royalty or excise duty is always excluded from taxable value, that the respondent never owed tax on the underlying transaction, or that a particular undervaluation allegation was proved or disproved. The decisive defect was the untimely exercise of adjudicatory power.

The order also did not award a quantified refund, damages or compensation. Its operative relief was dismissal of the Department's appeal, sustaining the result reached on limitation.

Practical points for taxpayers and tax authorities

For a taxpayer raising limitation after remand, the core documents are the original show-cause notice, governing statutory text, original order, appellate remand order, fresh order and any extension or exclusion relied upon. The objection should identify the nature of the remand, its date and the legal computation rather than rely only on a general complaint of delay.

For the Department, the remand directions and renewed deadline should be recorded promptly. Any extension must have a lawful statutory basis, comply with its conditions and remain within its permitted bounds. Administrative delay or the absence of a provision separately labelled post-remand limitation does not create open-ended authority under this ruling.

Counsel should distinguish the deadline for original adjudication, the deadline applicable to fresh adjudication after remand and any limitation governing an appeal or reference. They serve different procedural functions. The present case concerns the second issue under the historical section 36(3) framework.

Frequently asked questions

Does remand give the sales-tax authority unlimited time to decide again?

No. Where the original order is set aside and fresh adjudication is ordered, Makerwal holds that the section 36(3) period runs afresh from the remand date, subject to lawful statutory extension or exclusion.

Why did the Supreme Court apply 45 days in Makerwal?

The applicable historical provision prescribed 45 days, and no extension was sought or obtained. The fresh order came more than four years after the remand and could not be saved by any extension or exclusion shown on the record.

Did Makerwal decide whether royalty and excise duty were taxable?

No. The Supreme Court dismissed the appeal on the adjudication time bar. It did not determine the underlying valuation and liability questions in this order.

Is 45 days the deadline for every current sales-tax case?

This judgment does not establish that universal rule. It applies the section 36(3) text relevant to its proceedings. The governing statutory version and applicable extensions or exclusions must be checked for a different case.

Judgment source and paragraph guide

The complete supplied eight-page Supreme Court order is available through the judgment PDF download. Paragraphs 1 to 3 explain the proceedings and Department's argument; paragraphs 5 and 6 address section 36(3), Super Asia and WAK Limited; paragraphs 7 to 9 explain remand and the fresh period; paragraphs 10 to 12 apply the dates and dismiss the appeal. The article PDF is a separate explanatory publication.

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