

FBR READIES PRESENTATION FOR IMF

ISLAMABAD: The Federal Board of Revenue (FBR) Saturday briefed the Ministry of Finance on estimates of tax projections for January-June (2022-23) and the revenue impact of the new taxation measures of nearly Rs300 billion. The FBR Headquarters remained open. According to sources, the FBR has drafted a presentation for the International Monetary Fund (IMF) on revenue position and new tax measures under the proposed Ordinance. FBR Chairman Asim Ahmad and relevant FBR Members attended the meeting at the FBR House and discussed proposed revenue measures under the mini-budget. On Saturday, only a few wings of the FBR remained opened including the office of the FBR chairman. Later, the tax authorities went to the Ministry of Finance to discuss the proposed measures and tax projections for the remaining period of the current fiscal year.

R 29-1-2023

EX-OMBUDSMAN'S ORDER STILL AWAITS ENFORCEMENT: FTO MAY HAVE TO ORDER ACTION AGAINST FBR OFFICERS AGAIN

ISLAMABAD: The Federal Tax Ombudsman (FTO) may have to direct the Federal Board of Revenue (FBR) again to implement one of its key recommendations to initiate disciplinary proceedings against two officers posted in Haripur and Abbottabad over maladministration. In this case, a stay order was vacated by the Islamabad High Court (IHC) and the order of former FTO, Mushtaq Sukhera, was confirmed by President Dr Arif Alvi regarding illegal recovery through a bank account. As per details of the case, a Karachi-based taxpayer approached the FTO with the complaint that officers posted at Haripur and RTO Abbottabad had "illegally" attached his bank accounts and recovered a huge amount without considering that the complainant was assessed for tax in Karachi and no tax demand was outstanding against him at Haripur. When contacted, tax lawyer Waheed Shahzad Butt, who is representing the taxpayer at the IHC, told this reporter that the president had confirmed the former FTO's order to recover Rs0.450 million personally from the commissioner and IRO of Haripur/ Abbottabad and pay the same to the complainant taxpayer for illegal attachment of his bank account. The stay order was also vacated by the IHC but implementation wing of the FTO office has not initiated any proceedings yet.

The lawyer added that earlier the president had fully endorsed the verdicts of the former FTO in cases such as in No 66/2002-Rep (FTO) Law that states: "Sub-section (6) of section 14 of the 2000 Ordinance provides that if the FTO has reason to believe that any tax employee has acted in a manner warranting disciplinary proceedings against him he may refer the matter to the appropriate authority for necessary action."

In F No 11/2003-Law (FTO), No 12/2003-Rep (FTO) Law and No 218/2004 Law (FTO), the president rejected the representations of the FBR employees against FTO with the directives that "the Chairman CBR shall institute an enquiry to find if any disciplinary action against CIT would be proper and justified". Earlier the FTO had directed the FBR to recover Rs0.45 million from Asghar Khan Niazi, CIR, Abbottabad, and Muhammad Rafaqat, IAO, Haripur (costs and compensation) in equal shares and arrange to pay the same to the complainant; fix responsibility regarding administrative excesses, neglect, inattention, delay, incompetence, ineptitude and inefficiency in the administration or discharge of duties and initiate appropriate disciplinary proceedings against the officials found accountable and direct the CIR concerned to issue additional payment for delayed refund to the complainant.

PRESIDENT ORDERS FBR TO REFUND DEDUCTED TAX TO BRITISH-ERA LIBRARY

ISLAMABAD: President Dr Arif Alvi has upheld the orders of the Federal Tax Ombudsman (FTO) to issue tax exemption certificate for the tax year 2021 to a British era library in Multan, in addition to returning the deducted tax of Rs 198,000 to meet its essential expenses. While rejecting FBR's representation against the decision of FTO, the President noted that it was manifestly a hardship case, that Public Library and City Reading Room, Multan (the complainant) was registered as a Non-Profit Organization, and the late filing of returns withholding statement had not caused any loss to the national exchequer, therefore, FBR should take a sympathetic and considerate view of the matter. FBR had filed a representation with the President against the decision of FTO directing it to provide relief to the public library.

In his decision, the President observed that the complainant was providing readership facility to the citizens of the area at nominal cost of Rs. 20/- as membership fee per month, that it had approximately 400 members at present, and that a small number of staff was running the library and none of them drew taxable salary. He further noted that the running cost of the library was met through donations and the profit on fixed deposit of its endowment.

The President noted that the tax Exemption Certificate could not be issued to the complainant due to non-filing of return for the Tax Year 2020-21 and the delay in issuance was attributed to non-filing of the return. He further observed that consequent to non-availability of the Exemption Certificate, tax amounting to Rs. 0.198 million was deducted on the deposits being maintained with the Bank which was a primary source of its survival, and due to non-issuance of Exemption Certificate, even its four employees had been deprived of their small salaries i.e., less than Rs.20,000/- of each.—APP

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UNLAWFUL RECOVERY: FBR DELAYS DISCIPLINARY PROCEEDINGS AGAINST TAXMEN

ISLAMABAD: The Federal Board of Revenue (FBR) has delayed disciplinary proceedings against two senior tax officials involved in unlawful recovery against a taxpayer through bank account attachment of a Karachi-based taxpayer.

The FBR seems to be reluctant to initiate disciplinary proceedings against two of its senior officers posted at Islamabad and Abbottabad despite vacation of stay order from Islamabad High Court (IHC) and confirmation of the Federal Tax Ombudsman (FTO) order by President Arif Alvi, in a case of unlawful recovery through bank attachment of a Karachi based taxpayer instead of actual tax defaulter of Haripur. When contacted, tax lawyer Waheed Shahzad Butt who is representing the Karachi based taxpayer before IHC said that in the context of FTO's jurisdiction, the FBR officials are constantly challenging the FTO's orders for the last many years. It is high time that drastic steps have to be taken by FBR Chairman to take action against the officials violating the laws at their own sweet will and creating bad name for the FBR.

According to the taxpayer, the FBR officers posted at Haripur & RTO Abbottabad, without considering the fact that the complainant was assessed to tax at RTO Karachi against whom no tax demand was outstanding and without serving on him any prior notice, illegally attached his bank accounts and recovered Rs.1.714 million. Waheed told this correspondence that President Dr Arif Alvi has confirmed the former FTO Mushtaq Sukhera order to recover Rs.0.450 cost and compensation personally from Commissioner & IRO, Haripur/Abbottabad and pay the same to the complainant taxpayer for illegal attachment of bank account. Waheed further added that earlier President of Pakistan has fully endorsed the verdicts of former FTO in various cases such as in No. 66/2002-Rep (FTO) Law it states "sub-section (6) of section 14 of the 2000 Ordinance provides that if the FTO has reason to believe that any tax employee has acted in a manner warranting disciplinary proceedings against him he may refer the matter to the appropriate authority for necessary action." In F.No.11/2003-Law (FTO), No. 12/2003-Rep(FTO)Law and No. 218/2004-Law(FTO), President has rejected the representations of the FBR employees against FTO with the directions that "the Chairman CBR shall institute an enquiry to find if any disciplinary action against CIT would be proper and justified", "CBR shall take appropriate disciplinary action against the officials."

CUSTOMS: FBR SEEKS BUDGET PROPOSALS FROM BUSINESS & TRADE

ISLAMABAD: The Federal Board of Revenue (FBR) has sought customs budget proposals for 2023-24 from the business and trade. According to the FBR's letter issued to all chamber of commerce and industry here on Saturday, the FBR has invited customs-related budget proposals for the fiscal year 2023-24. These proposals may cover three areas i.e. changes in Customs Tariff rates including Fifth Schedule, Rules/Procedures and Customs Act, 1969.

In order to enable the Customs Wing of the Federal Board of Revenue (FBR) to properly process and evaluate each proposal, three separate formats are attached as Annex-I, II and III for preparing the proposals on MS Excel Sheets, FBR requested the business community.

It is suggested that while formulating the proposals, provision of the existing customs tariff rates/law may carefully be studied/consulted. Wherever required the proposal may be supported with the statistical data etc, so that it is not dropped on account of any such infirmity. In case of local manufacturer claiming tariff protection on its finished products or concession on its raw materials, complete Annex-IV (Local Industry giving proposals for Protection/Concession) also, without which it will not be possible to process these types of proposals, FBR said. It is requested that the proposals may be sent to the Board by March 1, 2023 positively, FBR added.

50PC DUTY IMPOSED ON IMPORT OF 'MILD HYBRID VEHICLES'

ISLAMABAD: The Customs classification committee of the Federal Board of Revenue (FBR) has imposed 50 percent customs duty on the import of "Mild Hybrid Vehicles", as vehicles without electric motor cannot be declared as hybrid vehicles for availing tax concessions.

In this connection, FBR's classification committee has issued a ruling on Saturday to explain the classification of hybrid vehicles for availing concessionary rates of duties and taxes at the import stage.

The classification committee declared that the vehicles with an electric power source, such as an integrated alternator/starter, that is used only for non-propulsion functions are not classified as HEVs. These power sources can be used for running stop-start systems and may have regenerative braking and charge management systems. Such vehicles may be referred to as having "hybrid technology" or being a "micro hybrid", but do not have an electric motor for propulsion. Thus, the vehicles having electric motor for propulsion are to be classified as hybrid vehicles.

The committee observed that as per report and insignia, these vehicles have been manufactured and are equipped with features of Hybrid Technology to achieve a number of desirables like running stop-start systems and charge management systems, etcetera. However, on physical examination of functionality and attributes, these vehicles have been categorically reported to not have an electric motor for propulsion.

In light of the above mentioned facts, the classification committee is of the view that the impugned vehicles are appropriately classifiable under Pakistan Customs Tariff (PCT) heading 8703.2119.

The Collectorate of Customs Appraisement, West, Karachi conveyed the Findings/Recommendations/Order dated December 12, 2022 of Federal Tax Ombudsman (FTO) passed whereby it was directed to refer the matter of classification of imported vehicles of the complainant to the Classification Centre.

Brief facts as reported are that complainant imported "Used Nisan Dayz Hybrid Car", "Used Suzuki Wagon-R Hybrid Car" and "Used Suzuki Hustler Hybrid Car" and claimed benefit of concessionary rates of duties and taxes under SRO 499(1)/2013 dated 12.06.2013 which was not allowed in the light of Circular dated 05.10.2018 issued by the Collectorate of Customs, Appraisement-West, Karachi, treating the vehicles as HEV like Mild Hybrid Vehicles.

The importers/com-plainants filed subject complaints which were disposed of by the FTO vide aforementioned order for referring the matter before the Classification Centre.

On the other hand, the representative of the importers/complainants contended that Circular dated 05.10.2018 has already been declared illegal/void by different fora. He contended that the imported vehicles have Hybrid Technology and the same are entitled for benefit of concessionary rates of duties and taxes under SRO 499(1)/2013 dated 12.06.2013. The representative also emphasised that SRO 499(1)/2013 dated 12.06.2013 do not differentiates amongst various types of vehicles and/or contains words such as hybrid like, Mild Hybrid or Micro Hybrid and only states "Hybrid Electric Vehicles (HEVs) falling under PCT Code 87.03" and the same has been held by various legal fora, to which being facts, the classification committee find no disagreement. The classification committee observed that the scope and mandate of classification committee under Chapter-II (Classification) of COO 12/2002 dated 15.06.2002, is limited to the extent of determination of classification of goods and do not have vested authority, powers and mandate to decide the applicability of and interpret any concessionary regime in respect of imported goods which fall under the jurisdiction and domain of the Clearance Collectorates, the Board and the judicial fora. As such, the classification committee proceeded to determine the classification of impugned vehicles, the committee added.

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IMPORT OF USED TRACTORS: ECC ASKS MOC, SBP TO RETHINK

ISLAMABAD: The Economic Coordination Committee (ECC) of the cabinet has directed Commerce Ministry and State Bank of Pakistan (SBP) to review the import of used tractors after import of 20,000 units, sources close to Secretary Commerce told *Business Recorder*.

The issue of used tractors is yet to be approved by the Federal Cabinet as some ministers are opposing the proposal but Finance Minister is holding local tractor industry responsible for forcing this decision. On January 17, 2023, Ministry of Commerce informed the ECC that in pursuance of the Prime Minister's announcement of the Kissan Package-2022 Ministry of National Food Security & Research (MNFSR) had prepared and presented a detailed Package to the ECC for approval, which also included a proposal regarding 'import of up to 5-year-old tractors with duty reduction'.

The Ministry further stated that the summary was first approved by the ECC on November 14, 2022 and subsequently ratified by the Cabinet on November 28, 2022. It was added that the first meeting of the Committee to oversee implementation of the Kissan Package-2022 was held on November 24, under the chairmanship of Minister for National Food Security & Research. However, regarding the decision of ECC/ Cabinet on import of 5-year used tractors the committee had directed Ministry of Commerce and Ministry of Industries & Production to "prepare a position paper and workable proposal within 10 days".

The ECC was informed that the Ministry of Industries & Production shared a proposal/ position paper with respect to (a) "import of used/ old tractors in CBU condition classified under PCT codes 8701.9220,8701.9320, 8701.9400 and 8701.9500 with depreciation allowance in value at the rate of 1% per month but not exceeding 50% of value of tractor"; (b) date of first registration of tractor in the country of export shall be taken as date of manufacturing'; and (c) "FBR shall make corresponding changes in relevant Customs General Order (CGO) for finalization of the customs value of imported tractor".

Ministry of Commerce further noted that in line with the directions of the Cabinet Division, comments of FBR were also invited on the Summary, which endorsed the proposals and proposed to maintain the existing mechanism for depreciation (as provided under CGO 14/ 2005, i.e., 2 % per month and up to maximum of 60%, to facilitate the end users-Kissan]. Moreover, FBR also suggested including PCT 8701.9290 in the proposal to make it all inclusive for agriculture tractors. To the extent of proposals of MOI&P with regard to allowance of depreciation and determination of age, it was pointed out that elaborate criteria (formula) for determination of age of vehicle and depreciation in value were already provided under Import Policy Order 2022 and CGO No. 14/2005.

It was added that to reduce cost of tractors, depreciation in value may be allowed at 2% per month with the cap of 60 %, as already provided under CGO No. 14 of 2005. Similarly, the formula for determination of age may be adopted as already provided under IPO 2022 with the additional caveat that the same may be supported either by a certificate from OEM or a certificate of first registration or a PSI certificate. Also, in line with the suggestion of FBR, PCT code 8701.9290 had been incorporated in the summary.

It was stated that import of second hand/ used vehicles of Chapter ST (of Pakistan Customs Tariff) was prohibited (banned) vide Sr. No.10 of Appendix-C, Import Policy Order (IPO), 2022 except those which were specifically exempted therein.

The Secretary, Ministry of National Food Security and Research observed that the true spirit of the Kissan Package was to encourage mechanization in Pakistan. It was also shared that the essential category of tractors up to 25 HP were not included in the proposal.

Minister for Planning, Development and Special Initiatives was also of the view that indigenization of tractor industry in Pakistan should be encouraged. Moreover, for import, the parameters for standardization should be also be established in the first place.

Finance Minister/ Chairman ECC responded that a number of initiatives were offered but the local tractor industry remained non-responsive. Moreover, currently the focus was to approve the policy and to settle the issues at the implementation level. The ECC also discussed to put a quantitative limit on the import of tractors and directed the State Bank of Pakistan and Ministries/Divisions concerned to oversee and go for review, if required.

Ministry of Commerce submitted following proposals for consideration and approval of the ECC:

(1) to allow import of up to 5-year-old tractors, an amendment has to be made in IPO 2022. To affect this amendment, a new clause may be added in column 2 (exceptions) against Sr. No. 10 of Appendix-C, Import Policy Order 2022, as given below: “(xv). import of agriculture tractors (PCT Codes - 8701 .9220, 8707.9290, 4707.9320, 8701.9400 and 8701.9500)), not older than 5 years, shall be allowed”.

(2) Age of a tractor may be determined as per the criteria (formula) already provided under para-3 of Appendix-E of IPO 2022 for calculation of age of vehicles, i.e., “Explanation. The age of the vehicle shall be determined from 1st January of the year subsequent to the year of manufacture till the date of shipment as per Bill of Lading”.

For the purpose of determination of year of manufacture for used tractor, the shipment shall accompany a certificate from OEM or a certificate of first registration or a PSI certificate, issued by one of the PSI companies listed at Appendix-H of IPO 2022, verifying the year of manufacturing. With regard to the part of proposal/decision regarding “duty reduction” for import of second-hand tractors, Commerce Ministry proposed that depreciation as already provided under CGO No. 14 of 2005, which provides ‘2% depreciation per month up to maximum of 60%’ in the assessable value for import of used/ second hand agricultural tractors, may be adopted.

ECC approved recommendations of Commerce Ministry with direction that Ministry of Commerce shall review position of import of tractors under Kissan Package, 2022 in consultation with State Bank of Pakistan, after importing 20,000 tractors and submit it to the ECC for consideration.

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ALL BENCHES OF ATIR BECOME OPERATIONAL

ISLAMABAD: All benches of the Appellate Tribunal of Inland Revenue (ATIR) became functional on Saturday, said a notification. According to the notification issued by the headquarters of the Appellate Tribunal of Inland Revenue on Saturday, in pursuance of a notification of the Law and Justice Division, all the existing benches of ATIR in Islamabad, Karachi, Lahore, Peshawar and Multan had become functional with immediate effect.

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PTBA SLAMS GRANT OF ATIR’S ‘CHARGE’ TO JUDICIAL MEMBER WORKING ON CONTRACT

ISLAMABAD: Pakistan Tax Bar Association (PTBA) has challenged the legality of assigning ‘look after charge’ of Chairperson of Appellate Tribunal Inland Revenue to a Judicial Member, who is working on a contract basis. According to a letter of the President Pakistan Tax Bar Association (PTBA) Rana Munir Hussain to Federal Minister of Law and Justice, PTBA has invited attention to an important aspect that after the sudden demise of the Chairperson of Appellate Tribunal Inland Revenue Pakistan Shahid Masood, the Law and Justice Division through its Notification has entrusted look after charge of the Chairperson Appellate Tribunal Inland Revenue to Sarfaraz Ali Khan (Judicial Member - appointed under Contract).

Pakistan Tax Bar Association has serious reservations over the look after charge of Chairperson ATIR interalia for the reason firstly that a person who has been given the look after charge is already serving as a Judicial Member on contract basis and the legality of such appointment is subjudice before the Islamabad High Court in the extraordinary constitutional jurisdiction and the same is fixed for hearing on February 16, 2023 before the Court.

Secondly, the senior most judicial members regularly appointed through Federal Public Service Commission (FPSC) have totally been ignored in violation of the decision of the Supreme Court of Pakistan in renowned "Judges Case", infringing their right to such appointment.

The look after charge shall still remain in effective for the reason that as per Rule-4 or the Appellate Tribunal Inland Revenue Rules, 2010, only the Chairperson or the member authorized by the Chairperson has the power to assign and entrust fresh appeals and application for hearing and decision thereof to the Benches. However, such Rules does not confer the power to the person having look after charge and as such the ATIR shall remain non-functional for the fresh cases i.e. fresh appeals and stay applications for interim relief. Therefore, in this view of the matter, the Pakistan Tax Bar Association strongly demand for appropriate judicial and lawful action in accordance with law and either to appoint the senior most Judicial Member as Chairman or entrusted with the acting charge for smooth and regular working and function of the ATIR, Rana Munir Hussain added.

R 30-1-2023

FBR CHAIRMAN DISCUSSES COMMERCE, TRADE ISSUES WITH BUSINESS COMMUNITY

PESHAWAR: Chairman Federal Board of Revenue (FBR) Asim Ahmad held a consultation with businessmen about issues pertaining to commerce and trade, with a focus on bilateral trade with Afghanistan. The discussion took place during a visit of Chairman FBR Asim Ahmad to Peshawar, stated a press release issued here Saturday. The delegation was led by Director of Pak-Afghan Joint Chamber of Commerce and Industry (PAJCCI) Zia-ul-Haq Sarhadi. Others present on the occasion included SVP PAJCCI Khalid Shehzad, Vice President Frontier Customs Agents Association Imtiaz Ahmad Ali, and President Khyber Chamber of Commerce and Industry Syed Jawad Ahmad Kazmi.

A number of officials including Chief Collector Customs KP Muhammad Salim, Collector Customs Enforcement, Dr Moeen ud Din Ahmad Wani, Collector Customs Appraisal, Ashfaq Ahmad, Director Transit Trade, Arbab Qaiser Hameed, Director General Customs Intelligence, Faiz Ahmad Chaudhary, Director Customs Intelligence KP, Shafqat Niazi, Collector Custom DI Khan, Yousaf Haider, PS Chairman FBR, Khawaja Khurram accompanied Chairman FBR during the meeting.

In the meeting, a detailed discussion was held on issues pertaining to commerce and trade and problems being faced by the business community in dealing with different departments. Ziaul Haq Sarhadi pointed out that despite the issuance of notification regarding de-stuffing of containers by shifting goods to local containers for saving demurrage charged on importers in case of delay is not being implemented.

The business community was informed that the issue is passing through inclusion in the module and soon its implementation will start. Other issues like problems being faced during the clearance of goods at the Pak-Afghan border were also discussed at the meeting. Speaking on the occasion, the chairman of FBR apprised the business community about measures being taken for providing ease to the business community. He said the country was passing through a difficult phase and people from each segment of society had to play their role in resolving the crisis.

The government, he added, focused on the promotion of commerce and trade in the country to stabilize the economy and for this purpose, all possible steps would be taken. Later, Ziaul Haq Sarhadi thanked the chairman of FBR for holding a consultation with the business community.

TN 29-1-2023

US WANTS WTO DISPUTE SYSTEM FIXED IN 2024

GENEVA: The United States is entering a third phase of talks with countries to reform the World Trade Organization (WTO's) hobbled trade dispute arbitration system and aims for it to be "fully functioning" by the end of 2024, the US ambassador to the WTO told Reuters on Thursday.

The WTO's appeals bench, which rules on top disputes, has been mothballed for over two years due to Trump-era blockages of adjudicator appointments. Under President Joe Biden, Washington has resisted calls by WTO members to approve appointments and has instead been leading negotiations on how to reboot the WTO's dispute system.

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