HIGH-INCOME EARNERS DIRECTED TO PAY 50PC OF SUPER TAX LIABILITY

ISLAMABAD: The Supreme Court Monday directed high-income earners to pay 50 percent of the due liability with regard to the super tax within seven days. A two-judge bench comprising Chief Justice Umar Ata Bandial and Justice Athar Minallah heard the Federal Board of Revenue's petitions against the Lahore High Court's order regarding imposition of super tax. The bench in its order turned down the FBR counsels' plea to direct the companies to deposit the entire amount. However, the bench after hearing the arguments modified the LHC's order and directed the companies to deposit 50 percent of the due amount which will be adjusted. It further said 50 percent of the amount is subject to the LHC's final order.

The LHC on September 30, 2022, conditionally suspended up to 10 percent super tax for companies, whose accounting year closed in December last (2021) but were still required to pay it. "The FBR is directed to allow the petitioners in this and concerned petitions to file their returns excluding the tax under Section 4C of the Ordinance of 2001 subject to the deposit of post-dated cheque of the differential amount liable to be deposited under Section 4C," read the interim LHC's order.

The super tax was imposed on the profits of wealthy corporations whose earnings exceeded Rs150 million through the Finance Act, 2022. The government had inserted Section 4C in the Income Tax Ordinance to charge the super tax from 13 specific sectors.

The government imposed the super tax on banks, cement, iron and steel, sugar, oil and gas, fertilisers, LNG terminals, textile, automobile, cigarettes, beverages, chemicals, and airlines. Hafiz Ahsaan Ahmed Khokhar, a tax expert, said that the Sindh High Court (SHC) has also issued a short order over the taxpayers' grievances agitated to challenge the vires of Section 4C of the Income Tax Ordinance, 2001 and struck down up to 10 per cent super tax to the first proviso to Division IIB of Part I of the First Schedule to the Income Tax Ordinance, 2001 and declared to be discriminatory, thus, ultra vires to the Constitution. He said there is no cavil with the legal principle that a charging provision in a fiscal statute is to be given a strict interpretation and if a case does not fall within the purview thereof, tax cannot be charged from a person from whom it is being claimed. He further stated that there is no doubt that the legislature has the power to make a law retrospective and this includes a power to give retrospective effect to a taxing statute, and in this particular case, the legislature has given their retrospective effect words through the Finance Act, 2022-2023 and stated that the amended Section 4C of Income Tax Ordinance, 2001 read with Division IIB of Part I of the First Schedule of Ordinance would apply from the assessment year 2022 and onwards which means to apply as retrospectively, and there are many judgments of Supreme Court ratifying such taxing legislation with retrospective effect and upholding the legislation on different occasions.

R 7-2-2023

FBR SEEKS PROPOSALS TO ELIMINATE EXEMPTION, CONCESSIONS IN INCOME TAX

ISLAMABAD: The Federal Board of Revenue (FBR) Monday sought proposals to eliminate exemptions and concessions under income tax laws.

The FBR said that the income tax proposals had been sought for budget 2023-2024 which should focus on phasing out exemptions and concessions. This should also include suggestions for removal of distortion and anomalies in the tax laws. It said that the revenue body is currently engaged in the formulation of proposals for the Finance Bill 2023. In order to benefit from the collective wisdom of all the stake-holders for improvement of tax policy, proposals are invited for the upcoming Budget 2023-2024.

The input/suggestions in the following policy areas shall be highly appreciated:-

— Broadening of tax base for a wider participation in revenue generation efforts;

— Taxation of real Income on progressive basis;

— Phasing out of tax concessions and exemptions;

— Removal of tax distortions and anomalies;

— Facilitation of taxpayers and ease of doing business;

— Promoting equity in taxation by introducing measures where incidence of tax is higher on affluent classes.

The FBR asked the stakeholders to send their suggestions and proposals by February 27, 2023.

PR 6-2-2023

IR OFFICIALS DEPUTED AT 33 SUGAR MILLS IN PUNJAB

ISLAMABAD: After certain instances of misuse of the track-and-trace system, the Federal Board of Revenue (FBR) has deputed Inland Revenue officials at 33 sugar mills in Punjab to monitor production, sales, and clearance of the commodity. Sources told *Business Recorder* here on Monday that some sugar mills were not affixing tax stamps or using used empty bags etc. In other cases, few mills reused the bags which already had stamps.

The officers of the Inland Revenue Service (IRS) are posted to monitor the production, sale, and stock position of all taxable goods under section 40B of the Sales Tax Act, 1990, at the manufacturing/business premises. The crushing season of sugar starts in November and ends in March and earlier, the government relied on the industry's statistics for sugar production. However, after the introduction of the Track and Trace system, the FBR is getting real-time data on the sugar production of each sugar mill.

The FBR has already suspended the supervisory staff deputed for monitoring at some sugar mills for committing negligence and allowing clearance of sugar bags without affixing stamps under the track and trace system (TTS).

The FBR has deputed special vigilance teams, comprising senior tax officials, to monitor the clearance of the sugar bags from sugar mills to seize such bags, which were cleared without affixation of tax stamps/ unique identification marking (UIMs) under the TTS.

In this connection, the FBR is strictly monitoring the sugar mills to ensure that the tax stamps are affixed before clearance of the sugar from the mill's premises. The enforcement wing of the FBR has seized the sugar bags from mills located in Sargodha, Mitthi, and Tando Muhammad Khan.

The FBR has suspended the supervisory staff deputed at the sugar mills for monitoring at Jhang, Badin, Mirpurkhas, and Faisalabad for committing negligence and allowing clearance of sugar bags without affixing stamps of TTS.

The FBR is also seizing the sugar bags from warehouses and premises of dealers, which were cleared without affixation of tax stamps. Under the counter-tax evasion operation, the FBR's special vigilance teams would seize sugar bags, which were found without affixation of tax stamps from mills/warehouses.

NA CLEARS TRADE DISPUTE RESOLUTION BILL, 2022

ISLAMABAD: The National Assembly, Monday, passed, "The Trade Dispute Resolution Bill, 2022" to constitute a commission which would help to prevent the detrimental effects of unresolved international trade conflicts and to mitigate the imbalances between stronger and weaker players by having their disputes settled on the basis of rules. "The Trade Marks (Amendment) Bill, 2023" was also introduced in the Lower House of the Parliament to comply with Madrid Protocol for the requirement to implement the best practice of trademarks registration, including to enable electronic services and for robust legal safeguards.

Minister for Law and Justice Shahadat Awan moved, "The Trade Dispute Resolution Bill, 2022" in the House for passage. The House passed the bill with a majority. According to the bill, the federal government would constitute a Commission to be called the Trade Dispute Resolution Commission and it shall have the same powers as vested a civil court.

The commission shall be responsible for the performance of following functions:

(a) initiation of proceedings in relation to trade disputes that may arise between parties and make orders and determinations in such manner and form as many as be prescribed.

(b) Provision of a comprehensive regime for the swift and effective resolution of disputes relating to the international trade in goods and services, including—— (i) provision and facilitation of a forum for negotiations, referral and allocation system, as provided in this Act, to allow and facilitate local and foreign importers and exporters access to a range of mechanism; (ii) the issue of final determination by the Commission itself; and (iii) conciliation in accordance with UNCITRAL Conciliation Rules; etc.

(c) Rendering advice to parties in relation to any proposed action to be taken by such parties and ensuring that such actions are coherent and consistent with the provision of this Act, rules, regulation mechanism or guidelines made hereunder;

(d) Monitoring of the conduct of dispute resolution mechanism and intervention in the event of delay;

(e) Maintaining the highest standards of integrity amongst all mediators, conciliation and arbitrators;

(f) Establishing and promoting arbitration and alternative dispute resolution institution with Pakistan; and

(g) Maintaining a collated database of all the chambers of commerce in the country as well as the trade bodies and registering any disputes that have been filed with these trade bodies.

According to the bill, the commission shall accept a trade dispute complaint if it is made through a written by one or more parties to the dispute.

The commission shall have power to refer the matter to any department or agency of the government, local chamber, any court, any bank, trade officer aboard, Pakistan embassy etc. The Commission may from time to time constitute and register regional conciliation committees. All law enforcement agencies and authorities in the federation and the provinces shall be under an obligation to provide and render full and complete assistance to the Commission.

Meanwhile, responding to points of order raised by the members of the house, the Minister for Parliamentary Affairs, Murtaza Javed Abbasi, said that a process has been started to recover the land of Pakistan Railways from the land mafia in Karachi. He said that the recovery of railways land is being done as per apex court directives and the process must be supported by all. He said that there is also a Supreme Court ruling regarding sacked employees and the departments are bound to implement it.

The House continued discussion on the recent incidents of terrorism, particularly in Peshawar.

Participating in the debate, Shahida Rehmani of Pakistan People's Party (PPP) said that the spike in terror attacks is quite alarming, which must be taken seriously. She said that the National Action Plan should be implemented in letter and spirit to root out the menace of terrorism, adding the stability and progress of the country are linked to peace in the country, for which all the stakeholders should join hands.

The lawmakers belonging to all the political parties strongly condemned the alleged gang rape of a woman at F-9 Park in the capital, saying the police negligence in this regard must not be neglected. Maulana Abdul Akber Chitrali of Jamaat-e-Islami said that "what to talk of other cities if women are not safe in the capital", and regretted that the negligence of the police to ensure security in the city is appalling. Sheikh Ruhail Ashgar of the PML-N said that the inability of the NA Speaker is quite evident from his helplessness that he is unable to issue the production order for the imprisoned MNA and Pashtun Tahafuz Movement (PTM) leader Ali Wazir in a "sedition" case, while offered Fateha for a convicted general. "I can understand your helplessness, deputy speaker, as you can't do anything as in this country might is right," he lamented. He continued that the list of lawmakers' helplessness is quite lengthy, as they simply could not resolve the genuine issues of their constituencies while the same issues are got done if the palms of a powerful bureaucrat are greased. The NA deputy speaker sought a report from IG Islamabad Nasir Akber Khan to submit a report about the alleged gang rape of a woman at F-9 Park by two unknown men.

The house also offered fateha for the departed soul of ex-military president Gen Pervez Musharraf as he breathed his last in Dubai on Sunday.

CROSS-BORDER TRADE: FBR ISSUES PSW (EVIDENCE OF IDENTITY) REGULATIONS

ISLAMABAD: All users of Pakistan Single Window (PSW) engaged in cross-border trade including import, export and transit as well as trade related service providers have to give evidence of identity by obtaining user identity (UID) by electronic means.

The Federal Board of Revenue (FBR) Monday issued Pakistan Single Window (Evidence of Identity) Regulations, 2023. According to the regulations, the procedure shall apply to all users whether individuals, sole proprietorships or bodies corporate registered with the FBR or the Securities and Exchange Commission of Pakistan, government organizations, diplomatic missions, foreign individuals and businesses or any other commercial and non-commercial entity engaged in cross-border trade i.e., import, export and transit as well as the users involved in the provision of trade related services such as customs clearing agents, shipping agents, bonded carriers, logistic operators, warehouse operators, transporters, or any other such business associated with cross-border trade, included or intended to be included in the PSW system. Under the new regulations, all persons wishing to conduct a cross-border trade transaction whether imports, exports, or transit must access the PSW portal and follow the electronic process through the PSW interface.

The subscribers to the PSW system shall renew and revalidate the system generated CID upon expiry of the validity period as prescribed in the 'PSW Evidence of Identity Rules', by following the process which includes, inter alia, payment of prescribed subscription fee.

An applicant shall be required to complete the subscription process within a period of two months from the date of payment of subscription fee. In case of expiry of the period of two months, the applicant shall have to initiate the process afresh which shall inter alia include payment of subscription fee as well.

The PSW system shall generate an electronic message to alert the subscriber of the expiry of the validity period in a timely manner, FBR added. The operating entity may refuse to issue UID, or suspend or cancel the existing UID, if the applicants or the existing subscribers, as the case may be, have been barred from conducting a foreign trade transaction under any applicable national or international law or legal, quasi-legal or administrative order by the authority of competent jurisdiction due to their involvement in smuggling, commercial or customs fraud, identity theft, trade-based money laundering, terrorist financing, terrorism, or contravention of any other national or international law, it added.

R 7-2-2023

PAKISTAN, TAJIKISTAN AMEND CONVENTION FOR AVOIDANCE OF DOUBLE TAXATION

Pakistan and Tajikistan have signed to amend the existing convention for avoidance of double taxation, Federal Board of Revenue (FBR) on Monday. The FBR issued SRO 82(I)/2023 and said that the Islamic Republic of Pakistan and the Republic of Tajikistan signed the Protocol on 17th September 2021, to amend the existing Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income between Pakistan and Tajikistan signed in Islamabad on May 13, 2004. In terms of Article 2 of the Protocol "The Contracting State shall notify each other through diplomatic channels that all legal procedures for the entry into force of this Protocol have been completed", and "This Protocol shall enter into force on the date of the later of the notifications". Authorities of Tajikistan have notified the Protocol with effect from 17th June, 2022;

In exercise of the powers conferred by sub-section (1) of section 107 of the Income Tax Ordinance, 2001, the Federal Government directed that the provisions of the said Protocol shall come into force from 17th June, 2022 and the provisions of the said Protocol shall apply,

— in case of the Islamic Republic of Pakistan, from the 1st day of July next following the date upon which the Protocol enters into force; and

— in case of Republic of Tajikistan, from the 1st day of July following the date upon which the Protocol enters into force.

PR 7-2-2023

INDIA WILL NOT MERGE GST TAX RATES IN 2023/24: GOVERNMENT OFFICIAL

India will not overhaul its Goods and Services Tax (GST) regime in the next fiscal year, a senior official said on Monday, delaying a move it has been considering for more than a year to simplify its tax structure and reduce the burden on consumers.

The country currently has five tax rates for GST, which was introduced in 2017, bringing numerous state taxes under one umbrella. They range from 0% to 28%.

In 2021, the government considered overhauling the tax by merging two of the tax rates, and lowering the levy on a host of items. Some have criticised the five-year old regime for having too many tiers. "Right now, we are just looking to maintain stability (in tax rates), a stable tax regime. Minor changes will always be there… major taxation change like merger of tax rates, we are not contemplating in 2023/24," Revenue Secretary Sanjay Malhotra said in an interview.

Malhotra said the government would ultimately want to have fewer tax bands but did not give a timeline. "We would want fewer tax rates, fewer disputes…that is certainly the goal to have fewer rates… and there may be scope to reduce tax slabs… that may be done in some point in time, but not now," said Malhotra.

The Indian government is also looking to simplify its taxation structure for custom duty, which falls outside the GST regime, by having fewer rates. "Going forward, we would like to have fewer customs tax rates as well," Malhotra said Monday.

Finance Minister Nirmala Sitharaman, who presented the 2023/24 budget last week, projected 12% growth in net GST collection for the federal government. For 2022/23, the government aims to collect 8.54 trillion Indian rupees ($103.20 billion).

The government also aims to collect 250 billion rupees through a windfall tax on petrol, turbine fuel and diesel that was imposed from July 2022.

The government took away a 5% concessional tax rate for foreign portfolio investors (FPIs) on interest income from debt securities, but Malhotra said investors will not be adversely affected by the move.

India has signed tax treaties with most countries, which require FPIs to pay 10% tax on interest earned from government securities and corporate and foreign currency bonds, as against 5% tax applicable earlier, he said. "Giving a lower tax rate will not help many of the funds because they would be required to pay taxes in their own countries. And to the extent of taxes they pay in India, they get a higher setoff in their country," he said.

R 6-2-2023