GOVT IMPLEMENTS REVENUE MEASURES FROM FEB 15 TO SECURE $1.2BN IMF TRANCHE EARLY

• Ends Kissan Package, power subsidy for exporters
• 1pc hike in GST to yield additional Rs70bn in four and a half months

ISLAMABAD: In light of an unexpected relief in tax measures from the International Monetary Fund, the government has decided to take a proactive approach and implement tax and non-tax measures from Feb 15 instead of March 1 — the purported deadline proposed by the global lender — to secure quick release of $1.2 billion tranche. Ahead of the start of much-delayed talks, the government was expecting that the IMF would ask for approximately Rs400 billion in tax and non-tax measures, but as policy-level talks came to a close both sides agreed on Rs170bn collection from tax and non-tax measures in the next four and a half months.

Official sources privy to talks told *Dawn* that the Federal Board of Revenue (FBR) has already drafted two ordinances to impose Rs100 billion in new taxes and Rs100bn in flood levy on imports. "We were expecting more demands from the Fund in the areas of taxes", the sources said, adding things have changed in the last two days of policy-level negotiations.

However, the sources did not elaborate on 'the change of heart' from the IMF side. The only justification that came was that the Fund might have considered the flood's effects on the overall economy. Moreover, FBR is getting extra billions from the massive rupee depreciation as well. Despite floods, the government will have to discontinue the Kissan Package along with power subsidy in the export sector from March 1. As per agreed FBR tax measures, the government will generate around Rs70bn in the next four and half months from raising the general sales tax from 17per cent to 18pc. The collection alone is 41.2pc of the agreed tax and non-tax measures of Rs170bn.

Other tax measures include raising withholding tax rates, increasing tax rates of regulatory duties on imports of luxury and non-essential items and further increase in the federal excise duty on the tobacco sector. "We have already completed our home-work and identified the areas for additional taxation measures", the sources said.

Finance Minister Ishaq Dar will pick from the basket of proposed tax measures, the sources said, adding there is flexibility now for the finance minister to choose among the sectors as well as rationalise tax rates. On the non-tax measures side, a flood levy will be imposed. "The levy is discussed with the IMF during the policy level negotiations", the sources said, adding the rate of levy and its implementation will be decided by the finance minister. The FBR will collect the flood levy for the government at the import stage. As a policy, according to the sources, IMF did not support tax measures at the import stage. However, the government will push for the levy to implement because its collection will not be shared with the provinces. Under the petroleum development levy (PDL), IMF has already projected a shortfall of over Rs300bn.

The flood levy will be used to bridge the PDL shortfall, the sources said, adding no commitment was made for further increase in the PDL. However, the government will increase Rs5 as PDL on diesel from Feb 15 and another Rs5 per litre from March 1. This will be in addition to the passing of international price impact along with the currency depreciation.

According to sources, the finance minister will decide the quantum share of FBR tax measures and non-tax measures (flood levy) in the total amount of Rs170bn to be collected in the next four months.

Pakistan and IMF technical teams held several rounds of talks for 10 days which ended with an understanding to complete formalities for the staff-level agreement. At the end of the talks, Pakistan received a draft Memorandum of Economic & Fiscal Policies (MEFP). Further discussions on the draft will start on Monday to fine-tune it. This will be followed by a signing of the letter of intent and the announcement of the staff-level agreement which will be placed before the executive board of the IMF for formal approval. After the approval of this from the board, Pakistan will receive $1.2bn from the Fund. This will also pave way for the bilateral amount from friendly countries including China awaiting a green signal from the IMF.

Dawn 12-2-2023

TAX EXEMPTION ON IMPORT OF RAW MATERIALS: STEPS TAKEN TO CHECK MISUSE OF QUOTAS BY UNITS IN TRIBAL AREAS

PESHAWAR: To ensure that raw materials being imported by manufacturing units in the erstwhile Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA) are used only for in-house consumption to produce finished goods, the Federal Board of Revenue (FBR) and other government agencies have introduced a scheme for quota allocation of raw materials on the basis of installed capacities of the units, according to a press release issued here on Sunday.

In the wake of merger of FATA and PATA with Khyber Pakhtunkhwa, the government had extended the benefit of exemption from collection of income tax on import of raw materials for the manufacturing units located in such areas. The task of determining the quotas was jointly assigned to the Regional Tax Office (RTO), Peshawar, and the director general of the Input Output Quotient Organisation. Teams were constituted from time to time to determine the production capacities of the units and allot quotas of raw materials to them.

However, on revisiting the quota-related records, it was observed that excess quotas were being availed by the units. Then at the directive of Chief Commissioner of the RTO, Aqeel Ahmed Siddiqui, Commissioner of Corporate Zone Shaukat Hayat and his team identified the main factors responsible for the misuse of quotas and took corrective measures accordingly. The press release said that as a result of these efforts, steel, ghee, textiles, plastics, etc. to the extent of 143,322 MT, and having approximate market value of Rs11,659.4 million and revenue implications of Rs2,219.62 million, have been disallowed so far since November of 2022.

FBR DRAFTED NO PROPOSAL TO TAX BANK DEPOSITS

ISLAMABAD: There was no proposal drafted by the Federal Board of Revenue (FBR) at any stage to impose tax on bank deposits of the general public to generate additional revenue under the upcoming mini-budget. Sources told *Business Recorder* that there was no such proposal at any stage during the whole process of the drafting of Tax Laws Amendments Ordinance, 2023. There was news in circulation that such kind of proposal was drafted by the government for mini-budget. However, the flood levy would be replaced with regulatory duties and additional customs duties, sources said.

According to the sources, Tax Laws Amendments Ordinance, 2023 to be promulgated by February 15 to impose additional taxes of Rs 170 billion would include one percent increase in the standard rate of sales tax from 17 percent to 18 percent and withholding tax on banking transactions of non-filers.

The proposal to raise the federal excise duty (FED) on sugary drinks would generate Rs60 billion. The revenue impact of the proposed withholding tax on banking transactions of non-filers is nearly Rs45 billion. Sources said that the FBR has worked out the revenue impact of Rs65 billion during Feb-June (2022-23) by increasing the standard rate of one percent sales tax from 17 to 18 percent.

The FBR has also proposed to raise the federal excise duty (FED) on imported and locally-assembled motor vehicles through the promulgation of the Tax Laws Amendment Ordinance to generate additional revenue in 'mini-budget'. The revenue generation measure under consideration is to rationalise the rates of the FED on imported and locally-assembled motor vehicles.

The FED on cigarettes would also be increased in the coming mini-budget, sources added.

FTO ORDERS FBR TO INITIATE PROBE INTO 'TRACTOR FRAUD'

ISLAMABAD: The Federal Tax Ombudsman (FTO) has issued an order in favour of poor growers/ farmers community of Sindh and directed the Federal Board of Revenue (FBR) to investigate alleged tax fraud committed by M/s Millat Tractors Ltd (MTL) against claims of inadmissible sales tax refund of Rs14.887 billion for tax period 2017-2022.

In this connection, the FTO has issued a detailed order dated February 10, 2023 against the said company. The complainant is a senior vice president of Sindh Chamber of Agriculture, Hyderabad and on behalf of his association has complained against alleged illegal payment of sales tax refund in billions of rupees to M/s Millat Tractors Ltd Lahore (Respondent 1) by managing self-made documents against transactions made through black money, by using fake and flying invoices, benami names and unrelated CNIC numbers without adhering to mandatory conditions mentioned under Sections 73 and 23 of the Sales Tax Act, 1990, which were never audited by the FBR and us fake/ flying invoices by claiming input tax for millions of rupees and sales to black-listed persons.

The FTO's order revealed that bookings of tractors are made by black money investors who themselves are not shown as buyers/ growers/farmers rather they are only carrying on the purchase and sale of tractors for profit/ commission motive by concealing tax and tractors invoiced in the names of unrelated Benami CNIC persons who have purchased tractors without agricultural land holding and mostly used for purposes other than agriculture, i.e., industry, trolleying bricks and construction material, digging of land, cleaning of garbage, etc.

According to the findings of the FTO's order, the core issue is allegation of tax fraud on payment of inadmissible sales tax refund of Rs14.887 billion during tax periods July 2017 to June 2022 under SRO 363(I) 2012 dated 13-4-2012 and SRO 563(I)/2022 dated 29-4-2022 to M/s Millat Tractors Ltd (MTL) against transactions fake invoices, benami names and CNIC numbers, without adhering to mandatory conditions mentioned in section 73 of Sales Tax Act 1990, depriving the benefit to poor farmers.

The allegation of "tax fraud" requires detailed examination of claim of refund in billions of rupees by MTL defined under section 2(37) of Sales Tax Act 1990. The term "Tax Fraud" has been defined under section 2(37) of Sales Tax Act 1990, the FTO's order maintained.

The FTO has recommended the FBR to direct the Chief Commissioner Inland Revenue (IR), Large Tax Office (LTO), Lahore to probe/ conduct detailed inquiry against the said company.

In addition, the issue of benami transactions as raised by the complainant where the payment is made by black money investors and tractors are delivered to other persons and sale invoices are issued to other dummy/ fictitious unrelated persons is a tailor made Benami Transaction cognisable under Benami (Transactions) Prohibition Act, 2017. Such a camouflaging transactions in the garb of engineered purchases attributed to fake buyers/ growers/ farmers shield the particulars of black money investors by misusing CNICs of unrelated person and investments made and profits earned by the beneficiaries remain concealed and untaxed, the FTO's order stated.

On the one hand, it conceals commercial transactions made by non-growers/ farmers/ black money/ Benami CNIC paves the way for claiming bogus Sales Tax Refund by Tractor Manufacturing companies like MTL and others.

The FTO has recommended FBR to direct the Chief Commissioner IR, LTO, Lahore to probe/ conduct detailed inquiry in the light of discussions held in the FTO order, in accordance with the provisions of Sales Tax Act 1990 read with SROs 563(I)/2022 dated 29-04-2022, 1248(I)/2020 dated 23-11-2020 and 363(I)/2012 dated 13-04-2012.

The FTO has also recommended Director General Benami Initiative, FBR to Probe the incidence of Benami Transactions through 82 dealers by Millat Tractors Limited not only in the case of MTL but also other leading tractor manufacturing units. Such glaring instances of omission and commission on the part of department reflecting "neglect, inattention, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities" clearly tantamount to maladministration in terms of section 2(3) (ii) of FTO Ordinance, 2000, the FTO's order added.

PRESIDENTIAL DIRECTIVES: FBR TO GIVE EXPLANATION TO FTO

ISLAMABAD: On the directions of President Arif Alvi, the Federal Board of Revenue (FBR) is bound to give an explanation to the Federal Tax Ombudsman (FTO) for unnecessarily contesting the decisions of the FTO before the pesident without sound legal justification of representations. When contacted, Waheed Shahzad Butt Advocate, who has represented the taxpayer before the President, told *Business Recorder* that President Arif Alvi while expressing his dismay, said that chasing the small and financially insignificant taxpayers unnecessarily and without cogent and lawful reasons impinged negatively on the image of FBR and also created public resentment against it. Waheed further added that President Alvi gave these remarks while upholding FTO's decision in a case where a shop owner from Abbottabad had been registered by FBR as "Tier-1 Retailer" even though he did not fulfil the criteria required for this purpose. The citizen approached FTO over this injustice which passed the orders in his favour. FBR; however, didn't comply with the decision and preferred a representation with the president.

The president rejected FBR's representation and directed it to deregister the shop and report compliance within 45 days on the ground that FBR had unjustifiably registered a cloth shop as "Tier-1 Retailer" even though the shop was found lacking lawful criteria and was qualified for deregistration under relevant existing provisions of Sales Tax laws. Since the complainant's shop consisted of 594 sq. ft only; therefore, the compulsory registration of complainant by FBR under the Sales Tax was contrary to law, rules, arbitrary/ unjust and was based on irrelevant grounds and tantamount to maladministration. He stated that the order of FTO was based on sound footings and, therefore, there was no valid justification to interfere with its original order, thus, the representation was being rejected. He further directed FBR to send a report within 45 days of implementation of his order and explain the reasons as to why this miscarriage had happened, justice was delayed and why efforts and time of highest forum was wasted, President ordered.

R 13-2-2023

REPROCESSING WASTE TRANSFORMER OIL: TAX NOTICES WITHDRAWN AGAINST PAKISTAN WAPDA FOUNDATION

LAHORE: The Federal Board of Revenue (FBR) has withdrawn notices of excise duty and sales tax against Pakistan Wapda Foundation for reprocessing waste transformer oil into usable oil without obtaining a central excise license and sales tax registration, said sources. They said the relevant tax authority has withdrawn show cause notice after proving that the Foundation was not a manufacturer of transformer oil neither under the excise nor the sales tax law, as it was perceived initially.

According to details, Deputy Director Sales Tax had issued a notice, asserting that the Foundation was reprocessing waste transformer oil into usable transformer oil in the Transformer Reclamation Plant installed at its premises at Shalimar Town, Lahore. The notice had contended that the activity was being carried out without obtaining a central excise license and sales tax registration. It was pointed out in the notice that the Foundation was not paying central excise duty as well as sales tax, which is tantamount to the violation of both the laws. The department was stressing the point that the activity was falling within the charging provisions of both the Central Excise Act and the Sales Tax Act, as the activity fall within the definition of manufacture and production and its supply is covered under the sales tax provisions.

R 12-2-2023

NEW TAXES: GOVT'S APPROACH TO IMF PROGRAMME CRITICISED

LAHORE: The Federation of Pakistan Chambers of Commerce & Industry's Businessmen Panel (BMP) on Sunday opposed the new taxes in the proposed mini-budget, as the government has agreed to impose more taxes to put the additional burden of Rs170 billion on exporters and domestic industry, including 1% increase in GST rate, to meet the conditions of the IMF for the revival of its stalled loan program.

FPCCI former president and BMP Chairman Mian Anjum Nisar said that the annual impact of the new tax measures would be more than Rs500 billion. The government has also assured the IMF of raising gas tariff and petroleum levy rates to chase a much-delayed staff level agreement. Mian Anjum Nisar, expressing serious concern over the proposed mini-budget to raise revenue by further enhancing the ratio of existing taxes, asked the government to tighten its own belt rather than continuing its previous policy of burdening the trade and industry through further indirect taxation that would devastate the economy, given the appalling state of the economy and menacingly high inflation. He said that the pressure of new taxes will be on the businessmen, as tariffs, particularly on gas and electricity, will rise significantly as part of the IMF condition to achieve full cost recovery rather than to focus on dealing with sectoral inefficiencies. He said that the regular attempt of economic managers to impose new taxes and increasing oil prices along with the hike in power and gas tariffs will ultimately harm the government's pledge of reducing the production cost for the businesses.

The IMF has asked Pakistan to impose new taxes to achieve the tax-to-GDP ratio target of 9.5%. Possible shortfall in the coming months may expose the government to more pressure from the IMF. He said that slapping additional taxes on industrial raw material and essential items would lead to further hike in inflation which is already in double-digit.

The IMF statement indicated that Pakistan would have to take all the needed measures before a staff-level agreement could be reached. Pakistan has agreed to implement the prior actions, which include imposing taxes amounting to Rs170 billion, as increasing the GST rate to 18% was part of the taxes — a measure that was highly inflationary and would hurt poor people more than the rich. He said the Rs170 billion taxes would be collected during the remainder period of the current fiscal year while the annual impact of the new tax measures would be much more than Rs500 billion - a figure that was closer to the IMF's original demand. It is to be noted the government has agreed to minimize the untargeted subsidies in the gas and energy sectors and this process would be completed with the approval of the federal cabinet, as, the Economic Coordination Committee (ECC) of the cabinet approved withdrawing the electricity subsidies for exporters and farmers. Mian Anjum said the country's generation cost was around Rs2.9 trillion while only Rs1.8 trillion was recovered. He added that this resulted in an increase in either the circular debt or fiscal deficit. However, the entire difference in amount would not be recovered by increasing the tariff, he maintained. He said that the IMF was looking for a significant increase in that area in light of the projected 29% inflation rate for the current fiscal year. He said the industry is the main victim of this International Monetary Fund (IMF) interference, as the donors' involvement in Pakistan's economic matters and dictations to the policymakers for taking harsh measures would add to the economic miseries of the country.

The BMP Chairman said that Pakistan's inflation rate is the highest among all the South Asian nations. He said that the world is moving towards alternative sources of electricity generation but the Pakistan government's policies are contrary to it. Mian Anjum said that the decision may have severe socioeconomic implications attributable to a 24.5 percent Consumer Price Index, besides lower output due to administrative and exchange restrictions that are negatively impacting on raw material imports and therefore on unemployment levels. The BMP Chairman observed that the tax compliance should be improved and tax base should be enhanced, which cannot be achieved with a single policy change, but through a systemic approach. He said that businesses are already in a complicated state-of-affairs, while anti-business actions against business community will not only add to the miseries of the business community but also promote trust deficit between the government and the business community. He said that in the past instead of focusing on controlling under-invoicing, curbing smuggling and expanding the tax net, the FBR seems to be inclined to pressurize registered taxpayers, who are already suffering due to a high rate of sales tax, income tax, and custom duties by creating fictitious cases for recovery of outstanding dues to meet revenue target.

Pakistan is the most frequent customer of the IMF and the governments often depend on borrowing from the lending arm and accepted stringent conditions, despite the fact that this institution is merciless money lender, which has always forced Pakistan to adopt bad policies like new taxes in the budget, rupee depreciation and massive increases in the electricity and gas tariffs.

R 13-2-2023

SHC DISMISSES PETITIONS BY STEEL IMPORTERS PETITIONS AGAINST 17 PER CENT SALES TAX ON IMPORT OF PLANT MACHINERY DISMISSED

Karachi: A custom bench of High Court of Sindh dismissed four identical petitions filed by Nawab Brothers Steel Mills Pvt Ltd, Naveena Steel Mills (Pvt) Ltd and Union Steel Industries who challenged the imposition and collection of sales tax at the rate of 17 per cent on import of plants and machinery.

The Petitioners case was that the they are governed by virtue of Section 7A of the Sales Act, 1990 ("Act") read with Rule 58H of the Sales Tax Special Procedure Rules 2007 ("2007 Rules") wherein, a substitute mechanism had been provided for payment of Sales Tax as final discharge of liability from all sorts of sales tax including sales tax at import stage.

The Counsel for the Petitioners have contended that pursuant to Rule 58H of the 2007 Rules, the Petitioners" liability to pay the Sales Tax is a maximum of Rs.13 per unit of the electricity consumed being collected by respective Electric Supply Companies, which is a final discharge of their liability, and therefore, levy and collection of Sales Tax on ad-val basis @17% on the import of plant and machinery is illegal; amounts to double taxation and is a burden upon the Petitioners. According to them since plant and machinery forms a necessary part of their manufacturing process being exclusively used for making taxable supplies; hence they could only be governed by Rule 58H ibid and not beyond that. Per learned Counsel, the Rules in question also provides for levy of fixed Sales Tax on certain items imported by the Petitioners; whereas, nothing has been stated as to levy of Sales Tax on the import of plant and machinery; hence impliedly it is exempt and no Sales Tax can be demanded or required to be paid on the import of plant and machinery. In support they have relied upon the cases reported as Attack Cement Pakistan Ltd. Vs. Collector of Customs Collectorate of Customs and Central Excise, Quetta and 4 others (PTCL 2001 CL.509), M/s. Daewoo Pakistan Express Bus Services Limited Vs. Federation of Pakistan and 5 others (PTCL 2016 CL.490), Collector of Customs, Sales Tax and Central Excise etc. Vs. M/s. Sanghar Sugar Mills Ltd., Karachi & others (PTCL 2007 CL.565), and unreported judgment passed by the Honourable Supreme Court in Civil Appeal No. 1422/2019 (The Commissioner, Inland Revenue, Karachi Vs. M/s. Attack Cement Pakistan Limited, Karachi).

The Counsel for respondents have argued that insofar as Rule 58H of the 2007 Rules is concerned, it has no nexus with the import of plant and machinery as Rule 58H only caters for payment of sales tax at the time of supply of goods, whereas, it further deals with a fixed amount of sales tax on import of certain input / raw materials. According to them it does not cover import of plant and machinery; nor there is any exemption notification in field; hence Sales Tax has to be paid on the import of plant and machinery. Lastly, they have argued that these petitions are premature as no sales tax has been paid, and therefore, it is not covered by Rule 58H as claimed. 4. We have heard learned Counsel for the Petitioners as well as Respondents and have also perused the record. It appears that petitioners before us are either manufacturing iron and steel products; or are in the process of setting up such manufacturing units / industry; and for this they have imported various plant, machinery and equipment to be used in such manufacture of steel products. The steel industry to which the Petitioners belong, for the purposes of payment of sales tax (at the time of import of respective machinery and equipment) on its production was governed by Rule 58H of the 2007 Rules (since omitted). It would be advantageous to refer to Rule 58H of the 2007 Rules notified vide S.R.O. 480(I)/2007 dated 9.6.2007, which reads as under: – "Notification No. S.R.O. 480(I)/2007, dated 9th June, 2007.–In exercise of the powers conferred by section 71 of the Sales Tax Act, 1990, read with clauses (9) and (46) of section 2, sections 3 and 4, sub-section (2) of section 6 [sub-section (3)] [, section 7], section 7A, clause (b) of sub-section (1) of section 8, clause (a) of sub-section (2) of section 13, sub-sections (2A) and (3) of section 22, sections 23 and 60 thereof, the Federal Government is pleased to make the following rules, namely:– 58H. Payment of tax.–(1) Every steel-melter, steel re-roller ", composite unit of melting, re-rolling and MS cold drawing] and composite unit of steel melting and re-rolling (having a single electricity meter), "[excluding units operated by sugar mills or other persons using self-generated electricity] shall pay sales tax at the rate of [thirteen] rupees per unit of electricity consumed for the production of steel billets, ingots and mild steel (MS) products excluding stainless steel, which will be considered as their final discharge of sales tax liability [:] [Provided that the rates of sales tax on the basis of electricity consumption prescribed in sub-rules (1) and (2) shall only be applicable to units consuming electric power supplied by public sector electricity distribution companies [and M/s. K-Electric Limited].] (2) Payment of tax by steel melters, re-rollers [, composite unit of melting, re rolling and MS cold drawing] and composite units of melting and re-rolling shall be made through electricity bills along with electricity charges: Provided that in case the due amount of sales tax mentioned in sub-rule (1) is not mentioned in the electricity bill issued to any steel melter or re-roller ", composite unit of melting, re-rolling and MS cold drawing] or composite unit of melting and re-rolling, the said melter or re-roller, composite unit of melting, re-rolling and MS cold drawing] or composite unit shall deposit the due amount of tax for the relevant tax period at the rate of [thirteen] rupees per unit of electricity consumed excluding the amount of sales tax already paid on the electricity bill related to the said tax period through his monthly sales tax return Provided further that payment of sales tax at the rats of thirteen Rupees per unit of electricity shall be the final discharge of liability of steel re- rolling units and composite units of melting and re-rolling including their pre-beating sections operated through fuels other than electricity.] [* * *]] [(2A) Adjustable sales tax at the rate of Rs. 5,600 per metric ton shall be levied and collected on import of re-meltable iron and steel scrap falling under PCT headings 7204.3000, 7204.4100 and 7204.4990, [from those discharging sales tax liability under sub-rule (1) of Rule 58H and Rupees [ten] thousand four hundred per metric tonne from other importers] whereas non- adjustable sales tax Rs. 5,600/- per metric ton shall be levied and collected on import of waste and scrap of compressors falling under PCT heading 7204.4940: Provided that further local supplies of such imported waste and scrap of compressor shall not be subject to sales tax [:] [Provided further that the steel melters discharging their liability under sub-rules (1) and (2) shall submit paid electricity bills of last three months the time of filing of Goods Declarations.] (2B) Local supplies of re-meltable iron and steel scrap shall be charged to sales tax at the rate of Rs. [10.400] per metric ton. (2C) Steel melters may obtain adjustment of the sales tax paid on imported remeltable iron and steel scrap, against the sales tax payable through their electricity bills, in the manner prescribed by the Board through a general order. Perusal of the aforesaid Rule reflects that it falls under Special procedure for payment of Sales Tax,

which now stands omitted3 and in fact relates to payment of Sales Tax for the production of steel billets, ingots and mild steel (MS) products, excluding stainless steel and Sales Tax so paid at the rate of Rs.13 per unit of the electricity consumed was to be considered as final discharge of their Sales Tax liability on such production and sale of their finished products. It further provides in Rule 2A that an adjustable sales tax at the rate of Rs. 5,600 per metric ton shall be levied and collected on import of re-meltable iron and steel scrap falling under various HS Codes from those units who are governed by Sub Rule (1) of Rule 58H; whereas, Rs. 10,400/- per metric ton is to be paid by other importers. Finally, a non-adjustable sales tax at the rate of Rs. 5,600/- per metric ton shall be levied and collected on import of waste and scrap of compressors falling under respective HS Codes. It has been further provided that local supplies on import of such waste and scrap of compressor shall not be subject to sales tax. Rule 2B provides that local supplies of re-meltable iron and steel scrap shall be charged to sales tax at the rate of Rs. 10,400/- per metric ton and finally Rule 2C further provides that steel melters may obtain adjustment of the sales tax paid on import of re-meltable and steel scrap against the sales tax payable through their electricity bills, in the manner prescribed by the Board through a general order. 6. The precise case of the petitioners as set up in the petitions and the arguments so advanced before us is that for the purposes of import of such machinery as above, they are not required to, or liable to pay any sales tax in terms of section 3 of the Act, as in lieu of that they are paying or will be paying fixed amount of Sales Tax through their Electricity Bills as per consumption of units. Their further case is that in the alternative, if they are required to pay any such sales tax, they would not be entitled to any input tax adjustment as they are governed by the fixed sales tax regime; hence, are not at all liable to pay any sales tax at import stage insofar as import of plant and machinery is concerned. With respect we are unable to agree. One needs to appreciate that the charging section under the Act is section 3(1)4 which provides that there shall be charged, 3 w.e.f 2019 4 3. Scope of tax. (1) Subject to the provisions of this Act, there shall be charged, levied and paid a tax known as sales tax at the rate of [seventeen] per cent of the value of– (a) taxable supplies made by a registered person in the course or furtherance of any [taxable activity] carried on by him; and (b) goods imported into Pakistan, [irrespective of their final destination in territories of Pakistan levied and paid a tax known as sales tax at the rate of seventeen per cent of the value of (a) taxable supplies made by a registered person in the course or furtherance of any taxable activity carried on by him; and (b) on goods imported into Pakistan, irrespective of their final destination in territories of Pakistan. What the petitioners want this court is to accept that the procedure in vogue regarding payment of fixed amount of Sales Tax under Rule 58H ibid, also covers any liability arising out of import of goods into Pakistan more specifically the plant and machinery as covered by these petitions. This argument by itself is contradictory and far-fetched. As could be seen, the levy of sales tax on import of goods is in addition to and distinct from the liability of sales tax arising out of manufacture or supply of any finished products by the Petitioners. At least not in respect of import of any plant and machinery. If the intention would have been so, then an exemption notification in terms of section 13 of the Act would have been issued; or it would have been so included in the 6th Schedule to the Act. The intent and purpose of Rule 58H is only in respect of payment of sales tax on sale of finished products being sold by the Steel Industry / petitioners. They, in lieu of ad-valorem sales tax on the value of supply of their respective products have been facilitated and obliged to pay fixed sales tax through their electricity bills. This is as a matter of convenience; to bring uniformity within the Steel Industry in payment of fixed sales tax on units of electricity consumed; and may be to avoid any under payment of sales tax by an unscrupulous person. However, for the present purposes, it cannot, at all is to be equated with any exemption from sales tax on the import of plant and machinery. Their raw materials or input material has been given a special rate of sales tax as mentioned above, and in fact, this also is not exempt in any sense. If raw material is not exempt in terms of Rule 58H, then how could they claim exemption of sales tax on the import of plant and machinery under the garb of this Rule by contending that since they cannot claim any input tax adjustment; hence, are not liable to pay any sales tax at import stage. The argument that since the machinery in question would be used in the supply of finished product; hence, it is stock-in-trade, for the present purposes is not relevant; rather is an attempt to mislead and create confusion to avail exemption at import stage. It has no nexus with the charge ability of sales tax on the import of any plant and machinery. This, at best, could be an argument once sales tax has been paid and any claim of input tax or refund, as the case may be is denied. This also is further qualified in terms of section 7 and 8 of the Act.

It was also contended by the Petitioners Counsel that since no mechanism for adjustment of input tax has been provided under Rule 58H, therefore, asking the Petitioners to pay sales tax at the import stage is creating an additional liability, whereas, the right of input tax is also being denied. However, this argument is also misconceived. Admittedly within the Rule as above, it has been provided that if there is any excess payment of input tax, steel melters may obtain adjustment of sales tax paid on import of re-meltable iron and steel scrap against sales tax through their electricity bills in the manner prescribed by the Board through a general order. In fact, the arguments to this effect is contradictory inasmuch as even on the import of certain input / raw material, it appears that excess sales tax is being paid by the Petitioners; and therefore, some adjustment mechanism has been provided. If this had not been the case, then there was no need to incorporate Sub-Rule (2C) in the above Rules. Secondly, it is not within the scheme of the Act, that if no Sales Tax is adjustable on supply of such goods, then necessarily no sales tax can be charged at the import stage, be it import of plant and machinery or input / raw material. This is a misconception on the part of the Petitioners. 8. We may further observe that before us it is not that some Notification has been issued under Section 13 of the Act, or goods have been included in the 6th Schedule; and either the exemption is being denied; or for that matter, it is being interpreted in some other manner, detrimental to their interest. The Petitioners case is merely presumptive, and conjectural based on an argument that since a mechanism has been provided for payment of fixed Sales Tax through electricity bills; then it is the entire discharge of liability in respect of all sorts of Sales Tax; including Sales Tax on import and supply stage. This argument is ill-founded and totally misconceived. The legal liability of a person in relation to supply of goods is clearly spelt out in section 3(3) (subject to subsection (3A): the liability to pay sales tax is, in the case of a person making a supply on the person, and in the case of imported goods on the importer. Merely, if both persons are same, it would not iso fact result in an entitlement to exemption if any of the liability stands discharged; but would be a case of input tax minus the output tax. This stage is not yet reached in the present facts and circumstances. Insofar as the present stage of the petitioner's case (i.e. import of plant and machinery) is concerned, in fact, there was no occasion to approach the Court and seek any orders (including ad-interim 5 Insaf Cotton Ginning v Federation of Pakistan (2016 PTD 2585) C. P. Nos. 8679/2018, 1171, 1011 & 3477 of 2019 Page 7 of 8 orders) as neither any cause of action had accrued; nor a case to that effect was made out.

Under the Act, sales tax on import is required to be paid in terms of section 3(1) (b) of the Act; which admittedly has no nexus with payment of any sales tax at supply stage for which at the relevant time Rule 58H was in field; and therefore, no case is made out by the Petitioners to exercise any discretion in the facts and circumstances of this case. Insofar as the precedents 6 cited by the Petitioners Counsel are concerned, they for the present purposes, have no relevance as they are in fact related to a situation, wherein after payment of sales tax at import stage, either input tax or refund was being denied on one pretext or the other. Moreover, these cases also pertain to a period when the Act and Rules in question were not pari-mutuel is to the present Act and Rules. Lastly, insofar as the recent unreported judgment of the Honourable Supreme Court in Commissioner, Inland Revenue Vs. M/s. Attack Cement Pakistan Limited, is concerned, in that case the dispute between parties was regarding the time and manner of claiming the adjustment of "input tax" and the Honble Supreme Court dealt with two question of law which for the present purposes do not help the case of the Petitioners; rather, in our view supports the case of the Respondents. At the most and notwithstanding the above, the right course available to the Petitioners was to approach Federal Board of Revenue prior to import of their goods to seek any exemption on the import of their plant and machinery. As stated this has been done and perhaps no response was received and the Petitioners rushed to this Court with their interpretation regarding Rule 58H as above and obtained ad-interim orders. Perhaps this was not warranted in the given facts and circumstances of these cases. Moreover, the Act in question provides a mechanism for refund of excess Input Tax under Section 108 ibid. Proviso to this Section deals with this and provides that that in case of excess 6 Attack Cement; Daewoo Pakistan Express; Collector of Customs, Sales Tax and Central Excise (Supra) 7 (i) Whether the adjustment of "input tax" from the "output tax" provided under section 7(1) of the Sales Tax Act could be availed without any limitation of time. (ii) Whether section 66 of the Sales Tax Act was applicable in the facts of present case, if so, whether the applications dated 11.06.1997 made by the respondent-company can be considered as refund applications under section 66 of the Sales Tax Act. 8 10. Refund of input tax.– (1) If the input tax paid by a registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during that tax period, the excess amount of input tax shall be refunded to the registered person not later than forty-five days of filing of refund claim in such manner and subject to such conditions as the Board may, by notification in the official Gazette specify: [Provided that in case of excess input tax against supplies other than zero rated or exports, such excess input tax may be carried forward to the next tax period, along with the input tax as is not adjustable in terms of sub-section (1) of section 8B, and shall be treated as input tax for that period and the Board may, subject to such conditions and restrictions as it may impose, by notification in the official Gazette, prescribe the procedure for refund of such excess input tax.] C. P. Nos. 8679/2018, 1171, 1011 & 3477 of 2019 Page 8 of 8 input tax against supplies other than zero-rated or exports, such excess input tax may be carried forward to the next tax period, along with the input tax as is not adjustable in terms of sub-section (1) of section 8B, and shall be treated as input tax for that period and the Board may, subject to such conditions and restrictions as it may impose, by notification in the official Gazette, prescribe the procedure for refund of such excess input tax. If any sales tax paid by the Petitioners at import stage, otherwise qualifies as their input tax within the ambit of the Act, including but not limited to restrictions per sections 7 and 8 ibid, then they may have a case to seek refund of any excess input tax in accordance with law. 10. In view of herein above facts and circumstances of the case, the Petitioners had failed to make out a case for any indulgence or to exercise any discretion in their favor under our Constitutional jurisdiction, the bench said passing the order to dismiss all these petitions.

CN 11-2-2023

EXPORT CARGO VEHICLES: TRADERS CALL FOR SIMPLIFICATION OF INSPECTION PROCESS

PESHAWAR: Traders and manufactures, dealing with exports, urged the authorities concerned to carry out single inspection of vehicles-laden with export cargo instead of multiple occasions to avoid huge financial losses and bring swiftness in the clearing process.

The matter/ issue was taken up by a businessmen delegation led by Sarhad Chamber of Commerce and Industry (SCCI) president Muhammad Ishaq during a meeting with Anti-Narcotics Force (ANF) Regional Directorate Commander, Brig Abdul Manan here at the regional office of the ANF, said a press release issued on Sunday.

The traders' delegation was consisted on president Frontier Customs Clearing Agents Association (FCCA) Khyber Pakhtunkhwa president and former senior vice president Ziaul Haq Sarhadi, former senior vice president of the SCCI Engineer Saad Zahid, senior member Khalid Shehzad, Dr Muqbool Khan, Mumtaz Khan, Asif Khan, Mazharul Haq, Syed Ejaz Ali Shah, Khalid Sultan Khawaja and others.

The Anti-Narcotics joint director RD Khyber Pakhtunkhwa, incharge Bacha Khan International Airport Peshawar, Aza Khel dryport, IT branch, DDR Branch Karachi port, and incharge Investigation cell were also present during the meeting. Muhammad Ishaq during the meeting informed the commander Brig Abdul Manan and other senior officials of anti-narcotics force and participants of the meeting regarding grievances and reservations of business community regarding multiple checking, scrutiny and examination of export-laden cargo consignments, which has not only causing wastage of time but also slowing down process of clearance. Ziaul Haq Sarhadi said huge financial losses were being inflicted to traders owing to multiple times checking and scrutiny of export cargo, demanding an end to the practice of re-examination after clearing of export cargo at Peshawar dryport. Saad Khan Zahid told the meeting about problems of industrialists due to multiple checking and examination of the export cargo and suggested a number of proposals for their amicable resolution.

The SCCI president thanked the senior officials of the anti-narcotics force for keenly listening to issues of the traders' community and giving assurance for all those issues which had fallen into jurisdictions and ambit of the anti-narcotics force. Ishaq appreciated the ANF has always played a pivotal role in facilitating traders and resolving their issues on priority grounds and providing maximum relief to the community. Brig Abdul Manan said the anti-narcotics force is fully committed to facilitating businesses, trade and exports at every level. He said they were available to the business community whenever they could approach us. He assured to promptly resolve all those issues of the traders which had fallen in their respective domain.

R 13-2-2023

CUSTOMS COLLECTOR APPRISED OF HINDRANCES IN PAK-AFGHAN TRADE

PESHAWAR: The newly appointed Collector Customs Appraisement, Ashfaq Ahmad was apprised about hindrances faced by businessmen dealing in Pak-Afghan trade. The briefing was given by a delegation of businessmen which called on him at his office under the leadership of Ziaul Haq Sarhadi, President Frontier Customs Agents Association Khyber Pakhtunkhwa, said in a press release issued here on Saturday.
Senior Vice President PAJCCI, Khalid Shezad and office bearers of Frontier Customs Agents Association including Vice President Imtiaz Ahmad Ali, General Secretary, Mian Waheed Shah Bacha and Executive Member, Haji Muhammad Azeem accompanied, Ziaul Haq Sarhadi.

The delegation members welcomed Ashfaq Ahmad over assuming the charge and expressed the hope that he will work with mutual coordination of stakeholders of Pak-Afghan commerce and trade. Speaking on the occasion, Ziaul Haq Sarhadi informed Collector Customs about the problems being faced by businessmen at different Custom Stations at Torkham, Ghulam Khan, Kharlachi, Angoor Ada, Aza Khel, Peshawar Dry and Airport.
Zia gave a detailed briefing about issues causing hindrances in trade at these custom stations and dry ports. He said Pakistan Railways is not made operational at Aza Khel dry port for the last 15 years as a result of which export from Peshawar through railway is completely stopped.
Ziaul Haq Sarhadi who is also Member of Advisory Committee of Pakistan Railways said the Azakhel dry port was inaugurated with a great pomp and show around three years ago and former Prime Minister Imran Khan had announced utilization of the facility for transportation of import and export goods between Peshawar and Karachi through train.
Talking to the delegation members, Collector Customs held out assurance of resolution of problems being faced by the business community on priority basis. He also informed that a letter has also been sent to the Divisional Commercial Officer (DCO) about issues pertaining to businessmen at Azakhel Dry port. He thanked the delegation members and reiterated his assurance of giving due consideration to resolution of problems causing impediments in Pak-Afghan trade.

BANKING PACT WITH SBP ALSO PLANNED: KAZAKHSTAN INTENDS TO SIGN TRANSIT TRADE DEAL: ENVOY

KARACHI: The Ambassador of Kazakhstan Yerzhan Kistafin has said that Kazakhstan intends to sign a Transit Trade Agreement with Pakistan which was very important as it would provide a legal framework to the businesspeople of both countries for developing trade ties. "We are also planning to sign an agreement between the State Bank of Pakistan and National Bank of Kazakhstan to develop legal framework for cooperation in the banking sector." "We are further planning to arrange visit of President of Kazakhstan to Pakistan this year and we will be signing a number of bilateral agreements, MoUs and commercial contracts during the said visit of our President. I invite Karachi Chamber to be part of the success story and I am pretty sure that with your contribution, we will be able to further strengthen the existing ties", he said while speaking at a meeting during his visit to the Karachi Chamber of Commerce & Industry.

Senior Vice President KCCI Touseef Ahmed, Vice President KCCI Haris Agar, Chairman Diplomatic Missions & Embassies Liaison Subcommittee Zia ulArfeen, Former President KCCI Muhammad Idrees, Former SVP Arshad Islam, Former VP Qazi Zahid Hussain and KCCI Managing Committee6 Members also attended the meeting.

Kazakhstani Ambassador also expressed the intentions to develop cooperation between the businesspeople in Karachi and Almaty by declaring them as sister cities, in addition to developing cooperation between Karachi Chamber and Chamber of Commerce of Almaty which would certainly give boost trade and economic cooperation between the two countries. "We are also trying to connect transit land routes between Kazakhstan and Pakistan and I am happy to see that TCS is now delivery consignments between two countries on a regular basis via Afghanistan and they can even provide insurance facility for your products", he added.
While referring to his meetings from time to time with various Chambers of Commerce, he said that the business people, who are very pragmatic, raised three main issues hindering trade, investment and economic cooperation between Kazakhstan and Pakistan including lack of connectivity which was a major hurdle in developing bilateral trade but it has been resolved now as on April 26, direct flight between Lahore and Almaty will be launched which will be followed by commencement of direct flights Karachi and Almaty from May this year.

“The second issue identified was pertaining to visa facilitation which has also been fixed by our Embassy as we now take around three to five days only to issue visa to those individuals who submit a letter from Chamber of Commerce along with their visa application,” said YerzhanKistafin,

“The third issue was pertaining to banking and I can happily inform that during our Deputy Prime Minister’s visit to Islamabad in December last year to attend 11th session of bilateral Inter-governmental Joint Commission, an MoU was signed between Bank of Punjab and Bank Center Credit Kazakhstan for establishing cooperation between our banks which would result in availability of formal banking channel facilitating all the transactions of businesspeople.”

He further noted that for the first time, businesspeople from Kazakhstan visited Islamabad, Lahore and Karachi in the month of February whereas Single Country Exhibitions were also staged in Pakistan and Almaty wherein more than 100 businesspeople from Pakistan participated. “The business communities of the two countries can develop cooperation in pharmaceutical, sports goods, agriculture, textile, construction and IT sectors etc.

All we need is to develop strong connections between our businesspeople.” While requesting KCCI to send a trade delegation to Kazakhstan on commencement of direct flight from Karachi in May, he said that Karachi was the financial hub of Pakistan, hence, its business community should take lead in further developing trade and investment cooperation between the two countries.

Earlier, KCCI Senior Vice President Touseef Ahmed, while warmly welcoming the Ambassador, stated that Kazakhstan was a part of the Eurasian Economic Union (EAEU) which was an economic regional block comprising Armenia, Belarus, Kazakhstan, Kyrgyzstan & Russia formed in 2015, hence, Pakistan can take advantage of easily accessing the huge Eurasian market through Kazakhstan.

“Despite strong bilateral relations between the two countries, Pakistan’s exports to Kazakhstan stood at a meagre of $107.87 million in FY22 as compared to $79.69 million in FY21, representing a growth of around 35.36 percent but during six months of current fiscal year, our exports to Kazakhstan dropped by 42 percent to $36.62 million compared to $68 million last year which needs to enhanced to a reasonable level through mutual cooperation,” he said. Touseef also invited Kazakhstani authorities and the business community to participate in Karachi Chamber’s “My Karachi Exhibition beginning from 3rd to 5th March 2023 which would be a wonderful platform for Kazakhstani private sector to explore businesses, markets & investment opportunities. He was of the view that both countries have great potential for diversifying trade relations and entering into joint ventures in the areas of agriculture, processing, IT, textile, energy, logistics, housing & construction sector. “The CPEC and Gwadar Port provide shortest route to Kazakhstan for strengthening bilateral trade, exports and economic development and improving connectivity.”

R 12-2-2023