CHALLENGE OF RS 2.3TRN LITIGATIONS: FBR SHARES PLAN WITH SENATE BODY

ISLAMABAD: The Federal Board of Revenue (FBR) shared a plan with the Senate Standing Committee on Finance to deal with litigation of Rs2.3 trillion involving 76,349 cases of Inland Revenue Service.

FBR Chairman Asim Ahmed, Tuesday, briefed the Senate Finance and Revenue Committee that the Alternate Dispute Resolution (ADRCs) system is not very useful and effective. The top 100 cases involving the highest amount of revenue have been shared with high courts and the Supreme Court of Pakistan to prioritise the top cases under litigation. Focal persons have been nominated in Large Tax offices and special benches have been constituted by the higher courts to dispose of cases involving a huge amount of revenue. Asim Ahmed also said that the deprecation of the rupee against the dollar has helped to bridge the expected shortfall in revenue collection of the FBR.

The Senate Finance and Revenue Committee urged the FBR to seek speedy disposal of weighty cases by the FBR before various courts, specifically those bringing significant revenue to the country. The committee was apprised that a total of 76,349 pending litigation cases Inland Revenue service till December 31, 2022, amounted to a total of Rs2.3 trillion. Out of which, 63,655 cases are pending in the Appellate Tribunal Inland Revenue involving an amount of Rs1.4 trillion. The FBR informed the committee that they are trying to approach the secretary and Minister Law for the record of these cases.

The FBR chairman informed the committee that back-to-back meetings with the chief Justice Lahore High Court and chief justice Islamabad High court are being conducted to make all efforts to liquidate pendency. Committee Chairman Saleem Mandviwalla said that the Customs Operation Wing has already set up an Alternate Dispute Resolution (ADRCs) mechanism for quick and amicable disposal of pending litigation cases and settlement should be made through ADRCs. The committee also suggested efforts if the cases can be resolved outside court. It was also suggested that cases should be disposed of on the basis of the “benefit of the doubt”.

The FBR informed that the Supreme Court of Pakistan has prioritised the disposal of revenue cases by constituting three benches where revenue cases are fixed on a daily basis. Likewise, the matter of notices being sent by the FBR to business persons, under the Anti-Money Laundering Act, was also taken under discussion once again.

The FBR chairman commented that we are cautiously identifying cases. He said that huge tax evasion was detected in the case of PEB Industries (Pvt) Limited during the inquiry and in the light of information received from the Financial Monitoring Unit (FMU), it was further informed that the accused was provided ample opportunities but it failed to respond.

The chairman committee reserved that there is a difference between tax evasion and AMLA and failing to respond cannot fall under the category of money laundering. The chairman committee compelled the FBR to avoid bundling up cases under the AMLA Act hampering the business community to do trade. He also put special emphasis on keeping a close check on pending cases in different fora for early disposal and discouraging frivolous litigation.

The committee was informed that all chief collectors/ director general have been asked to forward the recommendations for filing appeals/ SCRAs after satisfying themselves to the legality involved in order to dispose of cases. Discussion on the matter referred by the Chairman Senate regarding amendments in Customs Act 1969 and inclusion of import issues in the next budget raised by the Senior Vice Chairman, Rawalpindi Goods Forwarding Association was also taken up.

The Rawalpindi Goods Forwarding Association complained that Customs goods already cleared at entry points are unnecessarily checked during transportation across the country on the pretext of being smuggled. “Road interruption, simply corruption,” Senator Kamil Ali Agha remarked while regretting the norms of the field formation. He said that these field formations are in wait of bribes, and added that deliberate snubbing of the business vehicles is unjustified and causing enormous loss to the vehicle companies.

The Federal Minister of State for Finance, Aisha Ghaus Pasha, said that it is an administrative procedure and an amendment in the Act is not required at this stage. It was further informed by the FBR that the complaint has been examined and the field formations have been directed by the Board that vehicle carrying customs–cleared imported goods duly accompanied by import documents and showing the direct transportation from the port/ station of clearance, may initially be subjected to tallying the documents with the transport/ container.

ST ON SERVICES AGAINST TOLL MAKERS: SHC DISPOSES OF ALL PROCEEDINGS INITIATED BY SRB

KARACHI: Sindh High Court (SCH) has disposed of/ abated all proceedings initiated by the Sindh Board of Revenue (SRB) under sales tax on services against toll manufacturers observing that if at all the Sindh government intends to get any share out of the sales tax already collected by Federal Board of Revenue (FBR) under this head, it may approach the federation for its amicable settlement.

The court observed that tax which has already been paid by the petitioners to the federation through FBR, in respect of toll manufacturing, is their final discharge of liability in respect of sales tax, (either under the Sales Tax Act, 1990 or under the Sindh Sales Tax on Service Act, 2011 Act), and they will not be obliged to pay any further sales tax on such activity.

Additional advocate general opposed the petitions and submitted that Sindh government's consent recorded in the meeting of the National Tax Council was not binding on the Sindh government. He questioned constitution and formation of the National Tax Council and submitted that same was constituted without any support of law; therefore, the minutes of the said meeting are not an impediment against the stance of the province as already reiterated earlier, including in the comments, that sales tax is to be paid on toll manufacturing to the Province, being a service.

The court took exception over statement of the provincial law officer and observed that such response on the part of the officers of the province of Sindh including the one who had attended the meeting of National Tax Council that were Finance Secretary, Chairman SRB and its advisors, was not only without any justification but reflects badly on the part of the province as to their conduct before the Court.

The court observed that there was no denial of the fact that such meeting was attended by these gentlemen on behalf of the province of Sindh, whereas, not even the contents of the minutes of the said meeting have been denied.

The court observed that despite court order no response has been filed in writing on behalf of SBR but mere oral statement by provincial law officer on their behalf to this effect or contrary to what has been agreed upon in the said meeting does not suffice.

The court observed that it has been noted by the court in previous order that once it has been agreed by the province that such collection of sales tax on toll manufacturing will rest with FBR, then admittedly, it is no more a service.

The court had observed that there was no legal ground to justify that toll manufacturing was though a service from the date of promulgation of the Sindh Sales Tax on Services Act, 2011 up to June 30, 2002 and from July 1, 2022 it was not.

The court observed that prior to the 18th amendment and since inception of the Sales Tax Act, 1990, the definition of manufacture has always been such or has been interpreted in a manner, that toll manufacturing is in essence manufacturing of goods, under the Sales Tax Act, 1990.

The court observed that if it had been strictly a case that toll manufacturing is a service, then the province would not have agreed that FBR may collect sales tax on toll manufacturing.

The court observed that argument that toll manufacturing is still a service under the Sindh Sales Tax on Services Act, 2011 and has only been exempted from July 1, 2022 whereas, since promulgation of 2011 Act and up to June 30, 2022 the tax in question has to be paid to the province instead of FBR is not only misconceived but practically not enforceable.

The court observed that post 18th Amendment in a number of cases of like nature it is the taxpayers who were being dragged into unnecessary and protracted litigation and were being subjected to double taxation by the federation, as well as, the province in addition to a very heavy burden on the courts by way of petitions which perhaps, would have been better resolved amicably and with consultation between the federation and the province.

The court observed that in such matter in fact it has been resolved but now the province of Sindh wants that tax collected earlier by FBR on behalf of the federation on toll manufacturing has to be paid to them.

The court observed that it seems that perhaps it is their understanding that this court is a forum to recover the tax from federation and then pay it to the province. The court observed that stand taken by the province in the case cannot be appreciated rather must be deprecated.

The court observed that it is high time that courts start imposing costs upon such conduct of the province and its officers in their personal capacity, as such conduct, instead of resolving the issue, is to linger on with this litigation, and make an attempt to get the said amount in their kitty.

The court observed that at best, they ought to have approached the same forum or any other forum as may be available to resolve such disputes and claim their lien on such tax, which now onwards, has been exempted by them with further agreement that if at all sales tax is to be collected on toll manufacturing, it will be done by FBR.

R 22-2-2023

AMNESTY SCHEME PROPOSAL FOR ENHANCING DOLLARS INFLOW REJECTED

ISLAMABAD: A proposal of amnesty scheme to enhance inflow of dollars has been rejected by the government on ground that such measures will create difficulties for Pakistan.

The matter was discussed at a meeting of the National Assembly Standing Committee on Finance and Revenue on Tuesday. In response to a proposal for amnesty schemes aimed at enhancing the inflow of Dollars, the Government declined the offer on the grounds that such a measure would cause Pakistan to once again enter into the blacklist of the Financial Action Task Force (FATF).

The committee recommended a comprehensive super tax applicable to all entities, which would be based on the limit of profits, as proposed by the Federal Board of Revenue (FBR).

The Government is optimistic about the forthcoming achievement of a staff-level agreement with the International Monetary Fund (IMF), which is anticipated to facilitate the inflow of funds from International Financial Institutions by removing any obstacles that may impede the process.

The Committee demanded a progress report from the concerned authorities on the measures taken to ensure the investigation of banks involved in exchange rate manipulation. The 82nd meeting of the Standing Committee on Finance and Revenue held under the Chairmanship of Qaiser Ahmed Sheikh, Member National Assembly (MNA), said a press release issued here. While discussion, Minister of State for Finance and Revenue, Dr. Aisha Ghaus Pasha provided assurance to the Committee that the government has devised a plan aimed at implementing macroeconomic and structural policies, with a view to minimizing economic imbalances, fostering long-lasting inclusive growth, and generating employment opportunities. She apprised the Committee of the delay in the 9th review by the IMF, which was a result of a mutual agreement between the organization and the government.

Specifically, the estimates for expenditure concerning humanitarian assistance in relation to flood-related incidents for the current fiscal year, as well as those of priority rehabilitation expenditure, have remained pending since their expected due date in September 2022, she added.

Dr Pasha also informed the Committee to concentrate on assisting the Finance Division in adopting measures related to structural economic reforms, strategies for mitigating circular debt and recuperating losses related to the power sector, and devising sustainable economic policies aimed at benefiting the general populace of Pakistani society.

The Committee suggested that the Finance Division and the FBR formulate policies designed to bolster domestic industries that rely on the importation of raw materials from international markets and to aid importers in clearing their commodities from Custom Authorities. During the course of the discussion, the Secretary, Finance Division has responded to the concerns raised by the Committee during the meeting by undertaking a range of measures to enhance the country’s economic situation.

The Committee and the government concur that a range of measures is essential to counteract the ongoing economic crisis in Pakistan, including comprehensive economic policies, sustainable tax regimes, initiatives to reduce expenditure, the promotion of sustainable development, the introduction of export-oriented policies, the facilitation of private sector activities, and a gradual reduction of circular debt in the power sector. During the meeting, the Chairman FBR expressed confidence that the agency is pursuing the correct course of action to collect the anticipated tax revenue of 7.47 trillion rupees for the present fiscal year.

The Committee expressed its dissatisfaction with the delay in appointing Heads for the National Bank of Pakistan (NBP) and Zarai Tarqiati Bank Limited (ZTBL), which has remained unresolved for nearly a year.

The Committee recommends approving Public Sector Development Program (PSDP) related to Revenue Division, with an exception, for the financial year 2023-24 to be included in the Federal Budget for the next Financial Year. However, the Committee deferred the discussion/scrutiny of PSDP Projects related to the Finance Division till its next meeting. Later, the Committee appointed a Sub-Committee under the Convenership of Ch. Muhammad Barjees Tahir, MNA with Salahuddin Ayubi, Engr. Sabir Hussain Kaim Khani, Wajiha Qamar, MNAs as its Members.

The Committee will consider the Government Bills, titled, “The Securities and Futures Markets Bill, 2022”, “The Modaraba Companies and Modaraba (Floatation and Control) (Amendment) Bill, 2020” and “The Tax Laws (Amendment) Bill, 2021” (Ord. No. VI of 2021). Besides, the Minister of State for Finance and Revenue Dr. Aisha Ghaus Pasha, the meeting was attended by Members of National Assembly; Nasir Iqbal Bosal, Chaudhary Khalid Javed, Ch. Muhammad Barjees Tahir, Ali Pervaiz, Dr. Nafisa Shah (via video-link), Syed Hussain Tariq, Engr. Sabir Hussain Kaim Khani, Khalid Hussain Magsi, Salahuddin Ayubi, Makhdoom Syed Sami-ul-Hassan Gillani and Dr. Ramesh Kumar Vankwani.

The meeting was also attended by the senior officers from Finance Division, Revenue Division (FBR), M/o Planning, Development and Special Initiatives, M/o Law and Justice and Security Exchange Commission of Pakistan (SECP).

PR 22-2-2023

OVER 600 LUXURY ITEMS: TIME PERIOD EXTENSION: SROS UNVEILED

ISLAMABAD: The Federal Board of Revenue (FBR) Tuesday extended the time period up to March 31, 2023, for imposing/raising regulatory duties and additional customs duties on the import of over 600 luxury and non-essential items.

In this connection, the FBR has issued SRO204(I)/2023, SRO205(I)/2023, and SRO206(I)/2023 on Tuesday. Through SRO206(I)/2023, the FBR has extended the time period of SRO1572(I)/2022 dealing with the additional customs duty on the import of items. Under SRO204(I)/2023, the FBR has extended the period up to March 31, 2023, for the imposition of the regulatory duties on the import of items under SRO1571(I)/2022.

R 22-2-2023