

## **FBR MEETS COLLECTION TARGET FOR FEBRUARY**

ISLAMABAD: The Federal Board of Revenue (FBR) achieved the collection target of Rs527 billion set for February, a growth of nearly 19 per cent over the same month last year, showed provisional data released on Tuesday. However, the collection fell short by Rs214bn or 4.54pc to Rs4.492 trillion against the target of Rs4.706tr in the first eight months of 2022-23. The tax authorities recorded a 17.9pc growth over Rs3.810tr collected in July-February 2021-22.

FBR expects a few more billion when revenue collection is finalised.

The growth is much below what the government had committed to the International Monetary Fund to achieve the projected target of Rs7.47tr for FY23. On Feb 14, the FBR raised the sales tax rate from 17pc to 18pc but the impact of this hike had yet not been computed for the last 14 days. Similarly, the excise duty on cigarettes also increased significantly. The revenue projection in three and half months from these two measures is estimated at Rs115bn. At the same time, the Supreme Court on Feb 7 also ordered big taxpayers to deposit 50pc of their super tax with the federal board of revenue.

According to an official source, all these measures helped FBR to achieve its revenue collection target for February. The target is lower because of a shorter month, the official added. The tax authorities have anticipated that the massive rupee depreciation along with Rs170bn revenue measures and collection of super tax from large taxpayers in the next few months would bridge the shortfalls.

According to tax officials, the maximum collection is made under the head of income tax. One of the major reasons is the collection of the super tax in February. However, the collection of income tax is still behind the projected target in 8MFY23. The official believed that it will be bridged in the coming months owing to the full collection of all other budgetary revenue measures. However, FBR withheld the income tax refunds because nearly Rs12bn refunds were paid in the 8MFY23.

The collection of sales tax is far behind the projected target for the eight months. However, a paltry growth was recorded when compared with the same collection of last year. The domestic sales tax collection did not perform well despite unprecedented inflation.

Dawn 1-3-2023

## **RS2BN SHORTFALL IN FEB COLLECTION**

ISLAMABAD: The Federal Board of Revenue (FBR) has provisionally collected Rs 525 billion in February 2023 against the assigned target of Rs 527 billion, reflecting a shortfall of Rs 2 billion. The provisional tax collection of the FBR stood at Rs 4,490 billion in the first eight months of the current financial year against the assigned target of Rs4,733 billion for July-Feb (2022-23), reflecting a shortfall of Rs243 billion.

The FBR has not officially released the tax collection figures on Tuesday. FBR officials said that they will release the compiled figures on Wednesday. The FBR is confident to achieve the target assigned for Feb 2023, officials added. It is learnt that the provisional tax collection in Feb 2023 stood at Rs 525 billion against Rs 451 billion collected in Feb 2022, reflecting an increase of Rs 74 billion. The FBR's annual tax collection target has been increased from Rs7,470 billion to Rs7,640 billion for 2022-23.

R 1-3-2023

## **ADB EXECUTIVE DIRECTORS MEET CHAIRMAN FBR TO DISCUSS COOPERATION IN REVENUE MOBILIZATION**

Executive Directors of ADB, Mr. Takahiro Yasui (Japan), Mr. Weihua Liu (China), Mr. Sagmin Ryu (Korea) & Mr. Noor Ahmed (Pakistan) along-with Country Director Mr. Yong Ye, Mr. Ronald Ray San Juan Director's Advisor, Mr. Shunsuke Sakugawa, Director's Advisor for Japan, Mr. Yusuke Sekiguchi JFPR Fund Manager visited FBR HQs on Monday to meet Chairman FBR and his team to discuss cooperation in the area of Revenue Mobilization. During the meeting, both sides discussed the progress on ADB funded projects. Chairman FBR briefed the Mission on the revenue mobilization initiatives of FBR and discussed various mutual areas of cooperation. It was agreed that the FBR was on the right track to achieve the targets and both sides will continue to work towards identifying further areas of cooperation.

FBR PR 28-2-2023

## **SALES TAX RATE ENHANCED TO 18 PC FOR INCREASING TAX TO GDP RATIO: FBR**

ISLAMABAD: Federal Board of Revenue (FBR) on Tuesday said that standard rate of sales tax has been enhanced to 18 per cent to increase the tax to GDP ratio.

The FBR through Circular No. 01 of 2023 dated February 28, 2023 explained the major changes brought through Finance Supplementary Act, 2023. "In order to reduce fiscal gap and increase tax to GDP ratio, the standard rate of sales tax has been increased from 17 per cent to 18 per cent," according to the FBR.

In order to remove ambiguity regard power to enhance sales tax, the FBR further stated: "In line with the provision of section 3(2)(b) of Sales Tax Act, 1990, the Federal Government has been empowered to enhance the rate of sales tax in respect of goods falling in purview of the Third Schedule, through insertion of a new proviso in clause (a) of sub-section (2) of section 3 of the Act."

According to the circular, in the Eighth Schedule, S. No. 47 and 56 of Table-1 has been aligned with the increase in the standard rate of sales tax. Similarly, imported cellular/mobile phones (CBU) valuing US\$ 200 and above were chargeable to 17 per cent under Table-2 of the Ninth Schedule. The Schedule ibid has now been rationalized in line with the enhancement in standard rate of sales tax and the considered decision to introduce special rate of 25 per cent for certain luxury goods.

The new rates of sales tax for imported mobile phones are as follows:

Mobile phone valuing \$201 to \$500 the sales tax rate at 18 per cent shall apply

Mobile phone valuing \$501 and above, the sales tax rate at 25 per cent shall apply

It is pertinent to point out that there is no change in sales tax regime o locally manufactured mobile phones and imported mobile phones valuing less than US\$ 200 which shall be continued to be chargeable as per the relevant provision of Table-2 of the Ninth Schedule.

PR 1-3-2023

### **FBR'S AUDIT WINGS ACCUSED OF VIOLATING LAW ON ATTACHING TAXPAYERS' BANK ACCOUNTS**

LAHORE: The audit wings of the Federal Board of Revenue (FBR) are violating law related to attachment of bank accounts of taxpayers, said sources.

The audit wings are also found involved in defeating the relief extended by the tribunals to taxpayers, they added. The sources said the modus operandi of the audit wings suggested that they are hand in glove with the enforcement wings in harassing taxpayers as the attachment proceedings are initiated when ill-fated taxpayers are required to face demand notices against fake tax demands worth millions of rupees issued by them.

In most of the cases, taxpayers are yet busy with challenging fake demands when the audit wings direct their banks to hand over the amount lying in their bank accounts to the department. Interestingly, the audit wings carry out such exercises while violating the prescribed procedure for attaching bank accounts to withdraw the disputed amount from taxpayers.

According to the procedure, the sources said, the department is bound to serve upon the taxpayer a notice in the prescribed form requiring him to pay the disputed amount within specified period, failure of which may lead to another opportunity.

In case, a taxpayer is failed to respond to these notices, only then the audit wing can only attach his bank account or sale his moveable or immovable property, appoint a receiver and even arrest the taxpayer for six months. However, no such notice is served upon the taxpayer and the department prefers to withdraw the disputed amount directly from his bank account, which is a discrimination against a taxpayer for denying him the right of fair trial and due process, the sources added. They further pointed out that it is mandatory on the audit wings to follow the procedure, especially when appeal is already pending against a fake demand created by the concerned field formation.

Tax practitioners have further pointed out that it is well settled law that an act require to be done in a particular way has to be done in that manner. However, the departmental sources are of the view that serving upon any such notice is mandatory only where attachment and sale is to be effected and simple attaching the bank account for recovery of tax liability does not fall under the said provision of law. But this argument fails to stand on its legs before the higher courts where the principle of fair trial and due process supersede all such excuses.

## **INITIAL REGISTRATION WITH FBR: FIRMS, AOPS TO FURNISH DETAILS OF BENEFICIAL OWNERS**

**ISLAMABAD:** Every company and association of person (AOP) on its initial registration with Federal Board of Revenue (FBR) shall electronically furnish the particulars of its beneficial owners to the Board. The FBR has issued S.R.O. 229(I) 1 2023 to propose amendments in the Income Tax Rules, 2002 on Tuesday. Under the new rules, every company or AOP shall retain the records of all beneficial owners for a period of ten years from the date when the beneficial owners of that company or AOP, as the case may be, cease to be the beneficial owner of that company or AOP.

Board shall retain the records of beneficial owners of all companies and AOPs registered with the Board for a period of fifteen years from the date when that company or AOP ceases to be registered with FBR.

The rules said that every company and AOP already registered with FBR shall electronically furnish the particulars of its beneficial owners to the Board on or before December 31, 2023, as prescribed in Form (BOF-01) of Part IXA of the First Schedule to these rules through Board's online system.

The record of the beneficial owners shall be updated whenever there is a change in any of the particulars of the beneficial owner as stipulated in Form within 30 days from the date when the change occurs.

In case of non-profit organization, the settlor, trustee, founder, promoter, beneficiary, class of beneficiary, as the case may be, will be the beneficial owners of the non-profit organization: Provided that where the beneficiary or class of beneficiary of the non-profit organization is general public, the beneficiary or class of beneficiary of such non-profit organization shall be exempted from the requirement of providing information of beneficial owners under this rule. In case there is no change in the beneficial owners of the Company or AOP throughout a particular tax year, the Company or AOP as the case may, shall furnish a "Certificate of Confirmation for Beneficial Owner" to this effect as prescribed through Board's online system along with the Income Tax return to be filed for that tax year, FBR added.

## **'ADVANCE TO DEPOSIT RATIO': HIGHER RATE OF TAX WILL NOT APPLY ON BANKS FOR TY 2024**

**ISLAMABAD:** The higher rate of tax for "Advance to Deposit Ratio" will not apply on banks for tax year 2024, i.e., calendar year 2023. The Federal Board of Revenue (FBR) issued SRO 226 (I)/ 2023 to amend the Seventh Schedule of the Income Tax Ordinance, 2001, on Tuesday. Under the said notification, the FBR will not collect additional tax from the banks on "Advances to Deposit Ratio" for the tax year 2024. Through another notification, the amendment has been made in the Seventh Schedule of the Income Tax Ordinance 2001 exempting profit on debt and capital gains on government-approved debt and debt instruments in the hands of a non-resident company approved for this specific clause by the federal government. This is to incentivise foreign banks to sell bonds in foreign markets, a tax expert explained.

The notification SRO 226 (I)/ 2023 said, "in exercise of the powers conferred by rule 10 of the Seventh Schedule to the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Government is pleased to direct that the following further amendments shall be made in the Seventh Schedule, namely: — In the aforesaid Schedule, in rule 8, after sub-rule (4), the following new sub-rule shall be added, namely: - "(5) The provisions of sub-rule (6A) of rule 6C shall not apply to a banking company for tax year, 2024."

## **NON-RESIDENT BANKING COMPANY: PROFIT ON DEBT, CAPITAL GAINS FROM DEBT, DEBT INSTRUMENTS EXEMPTED FROM TAX**

ISLAMABAD: The federal government has exempted profit on debt and capital gains from debt and debt instruments from tax chargeable derived by any non-resident banking company, well informed sources told *Business Recorder*.

Sharing the details, sources said, Ministry of Finance (Revenue Division) in its summary tabled before the federal cabinet on February 22, 2023 apprised that the Seventh Schedule to the Income Tax Ordinance, 2001 ('the Ordinance') was a self-contained code which provided for computation and chargeability of income, profits and gains of a banking company, whether resident or Permanent Establishment (PE) of a non-resident.

Presently, Seventh Schedule does not contain any provision for grant of exemption on any income, profits and gains to a banking company and its rule 8 further places a bar on a banking company from availing exemptions under the 2nd Schedule to the Ordinance.

The Cabinet was informed that in order to cater for any future eventuality whereby federal government could seek foreign commercial loan from non-resident banking company having its branch (PE) in Pakistan on terms and conditions that may include grant of exemption on income, profits and gains to the extent of such commercial loan, rule 8 of Seventh Schedule to the Ordinance was required to be amended by insertion of sub rule.

The sources further stated that the federal government was empowered under rule 10 of the Seventh Schedule to the Ordinance to add, modify or omit any entry in the said Schedule through notification in the Official Gazette.

The following entry may be inserted under rule 8 to the Seventh Schedule: "profit on debt and capital gains from debt and debt instruments approved by the federal government shall be exempt from tax chargeable under this Ordinance, derived by any non-resident banking company approved by the federal government for the purpose of this sub-rule."

Ministry of Finance had accorded its concurrence vide communication No. F 3(1) EF (FCM)/ 202L of February 22, 2023 to FBR for the insertion of above sub-rule (4) in rule 8 of Seventh Schedule to the Ordinance. Relevant draft SRO for inserting the sub-rule in rule 8 of Seventh Schedule to the Ordinance was also shared with the Cabinet.

The Cabinet considered the summary titled 'insertion of new sub-rule (4) in rule 8 of Seventh Schedule to the Income Tax Ordinance, 2001' of February 22, 2023, submitted by the Revenue Division and approved the proposal. The Cabinet authorized the Special Secretary, Cabinet Division to issue the decision in the instant case without waiting for the formal approval of the minutes.

## **AJK GOVT NOTIFIES HUGE INCREASE IN FED ON CIGARETTES**

ISLAMABAD: The Central Board of Revenue Azad Kashmir on Tuesday substantially raised Federal Excise Duty on cigarettes from Feb 14, 2023.

The Central Board of Revenue Azad Kashmir has issued a notification on Tuesday. Under the first slab of cigarettes, locally produced cigarettes if their on-pack printed retail price exceeds Rs 9000 per 1000 cigarettes, the rate of the federal excise duty would be Rs 16,500 per thousand cigarettes. Under the second slab, the locally produced cigarettes if their on-pack printed retail price does not exceed Rs 9,000 per thousand cigarettes, the rate of the FED would be Rs 5,050 per thousand cigarettes, the notification added.

## **17PC TAX APPLICABLE ON MOBILE PHONES VALUING ABOVE \$200**

ISLAMABAD: There is no change in sales tax regime of locally manufactured mobile phones and imported mobile phones valuing less than US 200 dollars which shall be continued to be chargeable under the Sales Tax Act.

The FBR on Tuesday issued circular 1 of 2023 to explain important amendments introduced in Sales Tax Act, 1990 (STA) and Federal Excise Act, 2005 (FEA) through Finance (Supplementary) Act, 2023.

The FBR stated that in the Eighth Schedule, S.No 47 and 56 of Table-1 has been aligned with the increase in the standard rate of sales tax. Similarly, imported cellular/mobile phones (CBU) valuing \$ 200 and above were chargeable to 17% under Table-2 of the Ninth Schedule. The Schedule ibid has now been rationalised in line with the enhancement in standard rate of sales tax and the considered decision to introduce special rate of 25% for certain luxury goods. It is pertinent to point out that there is no change in sales tax regime of locally manufactured mobile phones and imported mobile phones valuing less than \$ 200 which shall be continued to be chargeable as per the relevant provision of Table-2 of the Ninth Schedule, the FBR added.

The FBR has imposed 10 percent federal excise duty on sugary fruit juices, syrups and squashes, waters whether or not containing added sugar or artificial sweeteners excluding mineral and aerated water.

The rate of federal excise duty on all types of aerated water has been increased from 13% to 20%, the FBR said. In order to reduce fiscal gap and increase tax to GDP ratio, the standard rate of sales tax has been increased from 17% to 18%. In line with the provision of Section 3(2)(b) of STA, the federal government has been empowered to enhance the rate of sales tax in respect of goods falling in purview of the Third Schedule, through insertion of a new proviso in clause (a) of sub-section (2) of section 3 of the Sales Tax Act 1990.

The rate of federal excise duty on cigarettes under S.No 9 and 10 of Table-1 of the First Schedule to the FEA has been increased through Finance (Supplementary) Act, 2023. The threshold of minimum price has also been enhanced by means of amendment in "Restriction-3-Minimum Price." Furthermore, in order to secure revenue and ensure that no cigarette brands become liable to lesser FED as a result of changes in the price threshold, a new condition "Rate of Duty" has been added after the Table-1 in First Schedule to FEA.

The rate of FED on cement was Rs 2 per kg which was reduced to Rs 1.50 per kg as part of the relief measure in the wake of Covid-19 pandemic through Finance Act, 2020. In order to bring at par with the rate prevailing prior to 1st July, 2020, the rate of FED on cement has been increased to Rs 2 per kg, the FBR added.

R 1-3-2023

## **SHC ASSESSMENT PETITION NOT MAINTAINABLE AGAINST ASSESSMENT PROCEEDINGS RULES, SHC CUSTOM BENCH**

KARACHI: An incorrect decision do not render a court or tribunal bereft of jurisdiction. This was held by a custom appellate bench of High Court of Sindh while deciding the two identical petitions filed by Junaid Traders & Others and A.B.Saeed Pvt Ltd. As per details the petitioners had challenged the assessment proceedings and application of Valuation Ruling No. 1534/2021 dated 27.05.2021 on the goods imported by them on the ground that said Ruling does not apply and is not relevant.

This argument was based on some earlier proceedings before the department, and which according to the Petitioners, were adjudicated in their favor; and therefore, Valuation Ruling could no more be applied.

The court passing an interim order on 20.12.2022, ordered release of goods after deposit of the disputed amount with the Nazir of this Court. The bench confronted the Petitioners' Counsel as to maintainability of these Petitions and any further adjudication of the matter, as apparently the issue is of assessment and for which departmental remedy has to be availed; coupled with the fact that the earlier order of Adjudication is not a final order to be applied in all matters, whereas, some appeal is also pending against it; and Counsel has not been able to satisfactorily respond, except that an illegality has been committed; hence, this petition is maintainable and must be decided on merits as well.

The bench said that it is not inclined to agree with the contention of the learned Counsel for the Petitioners for following grounds " Firstly, the order of the Adjudication authority is presently not a final order and is subject to Appeal which is yet to be decided. Therefore, at the present stage, it would be very unfair if the department is restrained from reiterating its earlier view, as it can also affect the pending Appeal. Notwithstanding, even if such an order had CP No: 7647 & 7648-2022 attained finality, it is not in and of itself a cause to exercise our discretion under Article 199 of the Constitution. It is well-settled that where a Court or a tribunal has jurisdiction and it determines that question, it cannot be said that it acted illegally or with material irregularity merely because it came to an erroneous decision on a question of fact or even of law and it is wholly wrong to consider that the above Constitutional provision was designed to empower the High Court to interfere with the decision of a Court or tribunal of inferior jurisdiction merely because in its opinion the decision is wrong.

The proposition is indisputable that when there is jurisdiction to decide a particular matter then there is jurisdiction to decide it rightly or wrongly and the fact that the decision is incorrect does not render the decision without jurisdiction so as to make it amenable to writ jurisdiction under Article 199 of the Constitution as a matter of routine. Though in view of the above, these petitions ought to have been dismissed as incompetent; however, since they have been entertained and interim order(s) have been passed by this Court; for the present purposes, they have served their purpose; hence, are disposed of with the observations that the Respondents shall pass an appropriate order of adjudication / assessment, as the case may be, after providing an opportunity of hearing in accordance with law, and any of the parties aggrieved with such order(s) may seek appropriate remedy as may be available in law.

The bench parting with the order said that the fate of the amount lying with the Nazir of this Court pursuant to ad-interim orders of the Court, shall be subject to such order (s) as above.

CN 28-2-2023

## **DESPITE ORDERS, FAILURE TO IMPOSE PENALTIES ON OFFICIALS IRKS**

### **FBR CHIEF**

**ISLAMABAD:** The Federal Board of Revenue (FBR) chairman has taken serious notice of the instances where heads of field formations have failed to impose penalties on 32 accused customs officials under Efficiency and Discipline Rules.

According to a communication of the FBR to all chief collectors/ directors general of Customs Department, on Tuesday, the chairman FBR/ secretary Revenue Division has taken a serious notice of the instances where competent authority had imposed a penalty under Efficiency and Discipline Rules but field formation had not implemented/ given effect to the penalty.

This vitiated the very spirit of the entire E&D proceedings and wasted the man-hours spent on it, the FBR said. In view of the above, a list of officers upon whom penalties were imposed under the Civil Servants (Efficiency and Discipline) Rules, 2020 pertaining to various field formations is communicated with the request that documentary evidence (e.g. field formations' notifications of reduction in pay and allowances, stoppage of IJP allowance and pay slips after change, etc., as the case may be, may be furnished to the Board for the perusal of the chairman FBR/ secretary Revenue Division latest by March 6, 2023.

The exercise would ascertain that the penalty given to an accused was enforced timely and properly. It is the responsibility of the head of a formation to ensure that the penalty imposed on officers/ officials is given effect/ implemented in letter and spirit without any delay, the FBR added.

R 1-3-2023