

## **ST ON CHRONIC POWER DEFAULTERS: FBR, PD FINE-TUNING RECOVERY MECHANISM**

ISLAMABAD: Federal Board of Revenue (FBR) and Power Division are giving final shape to mechanism for recovery of sales tax from chronic defaulters of electricity, well informed sources told Business Recorder. According to FBR, Power Division has requested FBR's assistance in recovery of amount due from permanent defaulters of electricity consumers to the extent of sales tax after passing recovery obligation to FBR. As per discussions and examination of documents, Nepra Consumer Service Manual and Wapda Commercial Procedures deals with operational procedures inter alia recovery of electricity dues from defaulting consumers, draft Special Procedure for Collection and Payment of Sales Tax (Electric Power Supply by Discos) Rules 2023.

Power Division has been requested to examine and provide input/ comments as per Rule 8 of Rules of Business, 1973.

Recently, Secretary Revenue Division held a meeting with Secretary Power Division and discussed different options to sort out this issue. Subsequently, senior officials of Power Division and FBR also held meetings and exchanged viewpoints to resolve the matter. During the discussions it was pointed out that the Power Division will examine the following to enable FBR to improve co-ordination in recovery:

(i) Enabling Provisions- there is apparently no enabling provision in the law/ rules of Discos that provide transfer of defaulted arrears of sales tax to FBR for recovery. Prospects of bringing in enabling provisions in the relevant law/ rules may be shared with FBR.

(ii) Refinement in billing mechanism- there are a large number of connections that are not in the name of the actual consumers.

There is possibility of creating at least an additional row in the utility bills to indicate the name of the user with CNIC and contact number. This will provide a better visual of the users who may be tenants, etc., actually using electricity connection, though the meter/ bill is in a different name. Corresponding legal amendments in relevant rules will be required to be made.

(iii) Best Practices- Possibility of developing a NADRA facilitated biometric system for change in particulars of tenants through mobile app whereby the owner of the building/ connection may easily include the details of the actual user of the electricity connection as and when the user/ tenant is changed.

(iv) Improvement and Standardization of procedures/ Documents - As per recovery mechanism presently in vogue, removal of energy meter is followed by a lag of six months where after criminal proceedings (lodging of FIR) and recovery memo is sent to Tehsildar. This means effective measures to recover defaulted amount are initiated almost after a year of default. The time lags need to be examined. A certificate as agreed would be required to be issued by Discos to the effect that proposed actions have been taken.

FBR argues that Tehsildars are not responsible to Discos and there is hardly a case where immovable property is attached for recovery of utility dues. Power Division may examine the prospects of appointment of a recovery officer under Tehsildar answerable to Discos for effective recovery and also prescribe a memo/ proforma/notice of reporting recovery action by such officers.

## **EFFECTIVE FROM MARCH 8TH: 25PC ST ON LUXURY GOODS NOTIFIED**

ISLAMABAD: The Federal Board of Revenue (FBR), from March 8, imposed 25 percent sales tax on the import and local supply of luxury items including aircraft, ships, jewellery, cosmetics, cigarettes, vehicles in Completely Built Up (CBU) condition and locally manufactured/ assembled vehicles having engine capacity of 1400cc and above.

According to an SRO 297(I)/2023 issued late Wednesday night, the federal government has directed that the sales tax shall be charged, levied and paid at the rate of 25 percent of the value of the goods imported and their subsequent supply or the retail price, as the case may be and the sales tax shall be charged, levied and paid at the rate of 25 percent of the value of the supply of specified goods. Through SRO 297(I)/2023, the FBR has further clarified that the provisions of this notification shall not be applicable in respect of goods specified in the Eighth Schedule to the Sales Tax Act, 1990.

The goods included in this schedule included computers, laptops, locally manufactured electric vehicles; road tractors for semi-trailers (Electric Prime Movers); electric buses; three wheeler electric rickshaw; second hand and worn clothing or footwear; cinematographic equipment and other items specified in the Eighth Schedule to the Sales Tax Act, 1990.

The FBR has imposed 25 percent sales tax on the import and local supply of aerated water and juices; confectionary; vehicles in CBU condition; sanitary and bathroom wares; carpets (excluding those from Afghanistan); chandeliers and lighting devices or equipment; chocolates; cigarettes, cigars and e-cigarettes; corn flakes and other ready-to-use cereals; cosmetics and shaving items; tissue papers; crockery, kitchenware and tableware and household articles; decorations or ornamental articles; dog and cat food only; doors and window frames; fish; footwear; fruits and dry fruits (excluding those imported through land route or barter mechanism); furniture; home appliances CBU; ice cream; jams, jellies, preserved fruits and fruit and vegetable juices; leather jackets and apparels; mattress and sleeping bags; fresh, chilled, frozen, preserved or processed meat; musical instruments; pasta; arms and ammunition excluding defence stores; shampoos; sunglasses; tomato ketchup and sauces; a ship designed or adapted for use for recreation or pleasure or private use; an aircraft designed or adapted for use for recreation or pleasure or private use; articles of jewellery (both precious metals and imitation); wristwatches; locally manufactured or assembled SUVs and CUVs; locally manufactured or assembled vehicles having engine capacity of 1400cc and above and locally manufactured or assembled double cabin (4x4) pick-up vehicles.

## **EXCHANGE FLUCTUATIONS: FOREIGN FIRMS' SUBSIDIARIES NOT ALLOWED TO CUT INCOME**

**LAHORE:** Tax authorities are not allowing subsidiaries of foreign companies to deduct the loss on income from business realized on account of the exchange fluctuation while terming it as a notional loss and not the actual one, said sources. They said the tax authorities are not ready to consider any gain or loss realized by subsidiaries on the date of payment to be made to their counterparts when their accounting systems deduct the exchange fluctuation as loss on income from business.

The department, on the other hand, is of the view that the exchange loss claimed by the taxpayers is a notional loss and not the actual one, and the Income Tax Ordinance stipulates that any loss or claim, which is not actual, is not allowable until and unless the same is actually incurred. Therefore, the assessing authorities are fully justified in adding the same to their income from business.

However, the taxpayers have stressed that the procedure adopted by them is as per the accounting system followed by them, therefore, the department errs in considering the loss to be a notional or fictional loss, which is incurred as per the books of accounts and the accounting system regularly maintained by them. It may be noted that the law allows deduction for any expenditure incurred during a tax year while computing the income chargeable under the head of income from business for that particular tax year. So far as the method of accounting is concerned, the law permits to compute income chargeable to tax on accrual basis in accordance with the method of accounting regularly employed by a company. In case of any change in the accounting method, the company is bound to apply in writing for the approval from the competent authority.

The law also stipulates that a person accounting for income chargeable to tax under the head "income from business" on an accrual basis shall derive income when it is due to the person and shall incur the expenditure when it is payable by the person. Sources from among the subsidiaries of foreign companies have pointed out that they ascertain their liabilities while determining them on the basis of the valuation of the rupee on the date when accounts are closed for a tax year.

Accordingly, the loss so declared by them is an actual loss and not fictional and it is a settled principal of taxation that any amount of expense incurred wholly or exclusively for the purposes of business is an allowable expenditure. It may be noted that all such expeditions on the part of tax authorities could not sustain before the appellate forums but the assessing authorities keep creating such demands to meet revenue targets set by the Board.

## **REFUND CLAIM: FTO DIRECTS FBR TO REVISIT 'CONDONATION' ORDER**

**ISLAMABAD:** The Federal Tax Ombudsman (FTO) on Wednesday directed the Federal Board of Revenue (FBR) to revisit 'condonation' order by considering the genuine grounds/ facts for issuance of refund to the taxpayer.

An order was issued by the FTO in this regard on Wednesday. Brief facts of the case are that earlier the complainant had filed a complaint before FTO for delay in disposal of condonation application for filling of refund claim for tax period April 2016. However, the FBR rejected the complainant's request for condonation. The complainant prayed that the FBR be directed to withdraw unwarranted rejection letter issued in haste and grant condonation of delay of one day for submission of sales tax claim.

The complainant submitted that as per the directions of the DCIR, the complainant without wastage of time applied for condonation before the concerned CIR but no decision was made by the CIR. After lapse of five years, the Complainant submitted a reminder request letter to the Department for condonation of submission of refund claim.

Meanwhile, the complainant has approached the FTO who decided the complaint on 22.09.2021 with the recommendations to FBR/CIR to decide request of the complainant for condonation of delay in submission of refund claim for tax period April 2016, as per law.

In compliance of the recommendations of the FTO, the matter was referred to the FBR Headquarters, for necessary action. The FBR rejected the request of the complainant on the ground that “as the delay has not been substantiated with plausible reason/explanation and relying on the judgments of the Supreme Court of Pakistan and FTO that substantive reasons for each and every day must be given before delay can be condoned, the FBR prayed for rejection of Complaint. FTO’s finding also stated that it was a settled principle of law that right of a taxpayer cannot be denied on the plea of limitation or on any other technical plea as held by the Supreme Court of Pakistan in judgment PTCL 1998 CL. 354 as under: “the denial of refund of the amount involved, would be violative of Article 24(1) of the Constitution which lays down that “no person shall be deprived of his property save in accordance with law.” “Latest judicial trend is to deprecate and to discourage withholding of a citizen’s money by a public functionary on the plea of limitation or on any other technical plea if it was not legally payable by him.”

Considering the above, there is no justification for the FBR to withhold the refund. Accordingly, Tax ombudsman has directed the FBR to direct Member-IR (Operations) to revisit condonation order and condone the delay.

## **CONTAINERS STUCK AT PORTS: ECC SEEKS REPORT ON WAIVER OF STORAGE CHARGES**

**ISLAMABAD:** The Economic Coordination Committee (ECC) of the Cabinet has directed Ministry of Maritime Affairs (MOMA) to submit a detailed report on waiver of storage charges on containers stuck at ports, well informed sources told Business Recorder.

Sharing the detail, sources said, on March 1, 2023, Ministry of Maritime Affairs informed the ECC that a meeting was held in Karachi Port Trust (KPT) Head office, co-chaired by Federal Minister for Maritime Affairs, Faisal Subzwari and Federal Minister for Commerce and Textile, Syed Naveed Qamar on resolving matters arising out of the situation of containers held-up at the ports due to non-discharge of Letter of Credits (L/Cs) and remittances of foreign exchange. During the meeting, it was decided, inter alia, that KPT/ PQA shall waive off all the charges of demurrages on the stuck-up containers/ cargo in their area of operations, due to the non-discharge of L/Cs and remittances of foreign exchange.

According to sources, the matter was taken up with Karachi Port Trust. KPT noted that its Board through its Resolution B.R. No. 381 of January 31, 2023 approved to waive off all the charges of storage as per SRO No. 1(KE)/2003 of July 1, 2003 on the stuck-up landed containers/cargo held up at Karachi Port as a result of non-retirement of Letter of Credits and remittance of foreign exchange.

KPT had further requested the Ministry of Maritime Affairs to obtain sanction of the Federal Government under Section 44 of KPT Act, 1886. As per Section 44 of the KPT Act 1886, in special cases, with the previous sanction of the federal government, tolls and charges can be remitted. The power of KPT Board to waive off tolls and charges has been fixed at Rs 5 million. Any waiver of charges above five million requires sanction of the federal government as per ibid Section. After detailed discussion the proposal of Ministry of Maritime Affairs to waive of demurrage charges of above Rs. 5 million cases where demurrage has accrued due to non-clearance of LCs on basis of certificate by state Bank of Pakistan be allowed was finalized.

The ECC, presided over by Finance Minister Ishaq Dar further directed Ministry of Maritime Affairs to submit a detailed report on waiver of storage charges on containers/ cargo stuck up at ports due to non-retirement of L/Cs on monthly basis to the ECC for consideration.

## **VIRAL DISEASE IN COWS: PAKISTAN HESITANT TO IMPORT BEEF FROM AFGHANISTAN: MOC**

**ISLAMABAD:** Ministry of Commerce (MoC) said Wednesday that Pakistan is reluctant to import cow meat from Afghanistan due to viral disease. This was revealed by Secretary Commerce, Sualeh Ahmed Faruqi while briefing the Senate Standing Committee on Commerce presided over by Senator Zeeshan Khanzada.

During discussion on export policy of milk and other edible food items Secretary Ministry of Commerce apprised the Committee that Pakistan is the 4th largest milk producing country in the world and as per Economic Survey 2021-22, Pakistan produces 65,745 million tons' milk and its consumption stands at 52,996 million tones. However, the export of milk has drastically decreased in the last two years.

Senator Zeeshan Khanzada remarked that prices of milk are increasing rapidly and yet government is allowing its export. Secretary for Ministry of Commerce stated that Government cannot put a cap on export of milk due to price fluctuation.

The Senate body was also briefed on the strategy devised by government for development of meat sector. Deputy Chairman Senate Mirza Muhammad Afridi opined that every day around 150,000 cows and lambs are slaughtered in the country and government should initiate import of meat from Afghanistan in order to minimize meat price and fulfil the export demand of the country.

Muhammad Sualeh Ahmed Faruqi replied the government is hesitant in import because of imminent threat of cow viral disease in Afghanistan. Taking part in discussion, Senator Saleem Mandviwalla stated that Pakistan petroleum imports stand at \$ 12 billion per annum and around \$ 4 billion worth of petroleum products have been utilised in motorbikes. He added that, in current economic scenario there is a dire need to devise energy efficient policy in order to reduce the country's import bill.

Chairman Committee proposed that a special committee comprising of members of Senate Standing Committee on Industries and Production, Finance and Revenue and Commerce be constituted to take up the matter.

The Committee was also scheduled to hold further discussion on the Bill titled "The Copy Right (Amendment) Bill" introduced by Senator Faisal Javed, in the Senate sitting held on January 16, 2023 and referred by the House for consideration of the report.

The report of the Committee is required to be presented in the House on before March 16, 2023. However, further discussion on the proposed Bill could not be held due to absence of the mover of the Bill.

The meeting was attended by Deputy Chairman Senate Mirza Muhammad Afridi, Senator Fida Muhammad, Senator Saleem Mandviwalla, Senator Danesh Kumar, Senator Mohammad Abdul Qadir, and Secretary for Ministry of Commerce Muhammad Sualeh Ahmed Faruqi. Senior officers of relevant departments were also in attendance.