

OVER 200 SUPER RICH PEOPLE IN KARACHI: RECOVERY PROCEEDINGS INITIATED

ISLAMABAD: The government has initiated recovery proceedings against over 200 super-rich people of Karachi, who were reluctant to pay the Capital Value Tax (CVT) to the tune of Rs3 billion on their foreign assets held abroad. Sources told Business Recorder Friday that out of Rs3 billion recoverable, Rs1.3 billion has already been recovered from these super-rich individuals. The attachment of the bank accounts of these people has been started in the first phase.

The Federal Board of Revenue (FBR) has adopted coercive measures against these super-rich individuals who failed to pay CVT on foreign assets. The FBR has issued orders against 200 rich people after their failure to respond to repeated notices.

The policy is to take action against the elite class who are not ready to pay the due amount of taxes. The relevant Automatic Exchange of Information (AEOI) Zone of the Large Tax Office (LTO) Karachi has taken this bold step against the super-rich defaulters of the CVT after the fulfillment of all legal formalities and procedures. So far, 40 bank accounts have been attached and an amount of Rs1.3 billion has been recovered from these persons including businessmen and bankers. The tax department has attached 15 bank accounts of the super-rich people in Karachi in a single day (Friday). This month, 25 bank accounts have so far been attached. The recovery process of attachment of bank accounts would continue in coming days.

The remaining bank accounts will also be attached after the completion of legal formalities. These persons are not responding to the notices of the FBR and the Commissioner Appeals has confirmed the orders of the tax department. There was a perception among these persons that recovery notices would not result in actual attachment and recovery of the amount from their bank accounts, officials said. After the attachment of bank accounts, the next measures would be the attachment of their immovable properties and the possibility of arrest, sources said.

According to the sources, the CVT on foreign assets was due by December 15, 2022. Around 6,000 rich people are required to pay the CVT on foreign assets and nearly 4,000 were required to pay the super tax on high-income earners. Presently, there is no bar on the government to collect CVT on foreign assets and tax on deemed income basis in Sindh, the sources said. The taxpayers/resident individuals who failed to deposit Capital Value Tax (CVT) on their foreign assets by December 15, 2022, are liable to pay the default surcharge at the rate of 12 percent per annum. The one percent CVT is applicable on the value of foreign assets of a resident individual where the value of such assets on the last day of the tax year in the aggregate exceeds Rs100 million.

The last date for filing of electronic declaration and payment of the CVT on foreign assets was December 15, 2022. Under the Capital Value Tax Rules, 2022, the value of foreign assets shall be converted into rupees for the calculation of CVT on foreign assets of resident individuals.

SPECIFIED GOODS, SERVICES: FBR DISALLOWS ST REFUNDS TO 5 EXPORT-ORIENTED SECTORS

KARACHI: Federal Board of Revenue (FBR) has disallowed the sales tax refunds of number of specified goods and services for five export-oriented sectors - textile, carpets, leather, surgical & sports through the Sales Tax General Order (STGO)09/2023.

The STGO states that since the listed goods and services are not related to business activity or otherwise inadmissible under the law, the same are being disallowed for refund purposes.

The STGO 09/2023 is the 2nd list of its kind which has been issued on negative goods and services. In the past, STGO No. 12 of 2022 dated 07 April 2022 was issued whereby input tax adjustment on certain goods was denied to manufacturers of oil & ghee and steel melter and re-rollers. Apart from a long list of goods disqualified for sales tax refunds for abovementioned sectors, the subject STGO also contains a list of debarred services which are taxable under the Provincial Sales Tax Laws. Talking to *Business Recorder*, Ghazanfar Siddiqi, Executive Director Tax at Moore Shekha Mufti strongly disagreed with the measure announced by FBR. He asserted that Sales Tax Laws did not empower FBR to specify negative list of goods and services to disallow input tax/ refund. He contended that the STGO contradicts the stipulations of Section 8 of the Sales Tax Act 1990 and accordingly is entirely illegal.

The law expert contended that legitimacy of aforesaid STGO may be challenged before the Superior Courts. Ghazanfar was apprehensive that after steel and now export-oriented sectors, the FBR may also issue identical negative lists for other businesses in the times to come. This will prosper litigation and cost of doing business, he concluded.

SINDH ASSEMBLY WRAPS UP PRE-BUDGET DEBATE

KARACHI: The Sindh Assembly Friday wrapped up its pre-budget debate with the Chief Minister complaining about judiciary's "meddling" in his government's job.

Concluding the pre-budget session, Chief Minister Sindh, Syed Murad Ali Shah credited his party for initiating the annual debate on the fiscal plan before its actual presentation in the house. He told the House that the country can only grow if the state organs including legislature, executive and judiciary function in line with the constitutional guidelines. He opined that such interference in one other's affairs has affected the country's development.

Citing a court objection on the naming of Gambat Institute of Medical Sciences after a senior lawmaker, Pir Abul Qadir Shah Jilani, he said that although the provincial legislature had legislated for it. "I have directed my legal team to prepare an appeal," he said that courts cannot undo such legislation. He said that his government will contest such decisions in courts. He said that the pre-budget discussion aimed to incorporate the proposal of the lawmakers into the annual fiscal plan of the province through a resolution, which the house latter passed unanimously. "I am thankful to some assembly members that they have given some good proposals and raised issues of their respective constituencies," he said.

Regarding the law and order issues Murad said that the opposition also voiced concerns in this connection. He also explained the entire stretch of katcha area, where dacoits shelter to commit crimes like kidnapping for ransom. He informed the house that his government is working with the army, intelligence agencies and the police to undertake a clampdown against the outlaws with preparations under way.

The recent floods have ravaged infrastructure and economy of the province, which forced the government to adopt austerity to cut its fiscal spending. "During the last eight months, up to Feb 2023, we have spent only Rs80 billion against an allocated budget of Rs148 billion operative expenditures budget," he added.

The CM claimed that his government is making efforts to carry out maximum uplift works during this fiscal year. However, he said the flood devastation has badly hit the development initiatives.

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FBR FREEZES BANK ACCOUNTS OF LEADING BUSINESSMEN, BANKERS FOR CVT RECOVERY

KARACHI: Federal Board of Revenue (FBR) has attached bank accounts of leading businessmen and bankers of the country for recovery of capital value tax (CVT) on immovable properties abroad. Sources in FBR on Friday said that recovery notices had been issued to at least 15 super rich persons through attachment of bank accounts. These persons have immovable properties outside Pakistan and liable to pay CVT.

An official at Large Taxpayers Office (LTO) Karachi told PkRevenue that the FBR had taken action against 15 super rich persons across the country. Out of 15 persons, the LTO Karachi has jurisdiction over eight persons.

The sources said that the bank accounts of 15 persons had been attached for CVT recovery. "An amount of Rs450 million is recoverable from such persons," the sources said, adding that the action has been initiated on the directives of the prime minister. The prime minister directed the tax authorities to ensure tax recovery from defaulters.

The CVT was imposed through Finance Act, 2022 at one per cent of the value on the foreign assets of a resident individual where the value of such assets on the last day of the tax year in aggregate exceeds Rs100 million.

According to the FBR an inclusive definition of the foreign assets has been provided which, inter alia, includes assets held abroad indirectly and under the beneficial ownership by the resident individual. "The value of foreign assets will be the total cost of the foreign assets on the last day of the tax year in relevant foreign currency which is converted into rupees as per exchange rates notified by State Bank of Pakistan (SBP) for the said day.

“In case the cost of foreign assets cannot be determined with reasonable accuracy, the fair market value on the last day of tax year will be taken for this purpose and rupee conversion is applied in the aforesaid manner. The resident person holding foreign assets will pay CVT at the time the income tax return for the tax year is due,” the FBR said. It further added that the officer of Inland Revenue has been empowered to pass an appealable order to recover CVT along with default surcharge from a person who fails to pay CVT or to collect CVT or fails to pay to the credit of the Federal Government after having collected CVT, by holding the person personally liable in this regard.

The sources said that the FBR likely to make public all the names of CVT defaulters in coming days.

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SUGAR EXPORT: SHIPMENT PERIOD EXTENDED ON EXPORTERS' PLEA

ISLAMABAD: The government has increased shipment time for the export of sugar after sugar exporters expressed concern that the revision of terms and conditions and the closure of the Torkham border were causing delays in shipment.

The decision to this effect was taken by the Economic Coordination Committee (ECC) of the Cabinet in its latest meeting on a summary moved by the Ministry of Commerce.

The meeting was informed in a summary that the ECC has allowed the export of a total of 250,000 MTs of sugar, inclusive of 100,000 MTs allowed vide an earlier decision dated 15th December 2022.

Subsequently, dated 26th January 2023 on a summary moved by the Ministry of Commerce, the ECC approved certain amendments to the terms and conditions of export of sugar. As per the revised terms and conditions of export of sugar, Provincial Cane Commissioners have been entrusted with allocation of quota for export of sugar within seven days of the date of issuance of notification by the Ministry of Commerce as per policy already approved by the ECC while exporters are required to ensure that the consignments are shipped within 45 days of quota allocation. Moreover, export proceeds would be received either in advance through banking channel, or within a period of 60 days of opening of LC for export of sugar.

The ECC was told that now sugar exporters have approached the Ministry of Commerce with the concern that revision of the terms and conditions of export of sugar, as well as the creation of shipment bottlenecks due to the closure of the Torkham border, is causing delays in shipment. Therefore, exporting sugar mills may not be able to meet the deadline of shipment within 45 days of quota allocation, and have requested that the time for shipment may be increased from 45 days to 60 or 90 days.

TAXPAYERS EXPLOITING FTO FORUM TO DEFEAT HIERARCHY OF TAX LAWS

LAHORE: Taxpayers are exploiting the forum of Federal Tax Ombudsman (FTO) to defeat a complete mechanism and hierarchy for assessment and adjudication of tax liability under tax laws, said sources. They said taxpayers initiate parallel proceedings before the FTO while adjudicating the same before the relevant appellate forums for settlement of tax issues.

According to the sources, taxpayers hide such parallel proceedings as well as any material or evidence against them to seek favourable directions from the FTO under its suo motu jurisdiction. Not only this, they added, shrewd taxpayers disclose partial truth out of the departmental investigations and inquiries to start a fishing or roving inquiry against public functionaries through Federal Investigation Agent (FIA) and other forums.

They said it is a settled principle of law that once the matter is sub-judice before the competent forum, no other court of authority, including the FIA or the FTO, can initiate any duplicate proceedings in respect of the same subject matter as it will amount to showing disrespect to the relevant forum as well as tantamount to double jeopardy and multiplicity of proceedings.

They further pointed out that for the purposes of implementation of tax law, including Income Tax Ordinance, 2001, Sales Tax Act, 1990, and Customs Act, 1969, complete mechanism and hierarchy is provided for assessment and adjudication of tax liability through quasi-judicial proceedings.

Similarly, in case of any dispute, forum of an appeal before the commissioner/collector (appeals) and second appeal before the appellate tribunal specially constituted for the purposes of deciding all factual and legal controversies relating to all tax law, rules and regulations, SROs, etc., have been provided by the legislature, followed by the higher forums up to the Supreme Court.

However, they said, the litigants invoke the jurisdiction of FTO to initiate inquiries under its suo motu exercise and jurisdiction. The sources further pointed out that unscrupulous litigants also manage to withhold notices to the department issued to seek their explanation with regard to allegations by the FTO. Accordingly, the office of FTO draws adverse inference against the department and issue directions to initiate the inquiry.

They said the Federal Ombudsman Ordinance 2000 has ousted the jurisdiction of the FTO to investigate or inquire into the matter which are sub-judice before a court of competent jurisdiction or tribunal or board or authority on the date of receipt of a complaint, reference or motion.

Similarly, they added, the FTO has no jurisdiction to investigate or inquire into matters related to assessment of income or wealth, determination of liability of tax or duty, classification of valuation of goods, interpretation of law, rules and regulations. The FTO has the jurisdiction only to investigate any allegation of maladministration on the part of the revenue division or any tax employee, they added.

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SHC ALLOWS RELEASE OF GOODS AFTER JUDGMENT BY CAT

KARACHI: A custom appellate bench of High Court of Sindh allowed a request for release of consignment after judgment came in favor of appellant Chaudhary Sultan Mehmood.

The bench earlier heard arguments of counsel from law firm Franklin Law Associates appearing for the petitioner against custom authorities including Director Valuation. The counsel for petitioner submitted that dispute regarding valuation was decided by Custom Appellate Tribunal (CAT) vide order dated 27-11-2022 following which the department has filed a Special Custom Reference Application which is now pending decision by SHC custom bench. The counsel for petitioner submitted that in view of accumulation of detention and other charges, the petitioner is ready to secure the disputed amount for release of goods.

The bench allowed the request as an interim arrangement while fixing April 12 as next date of hearing when compliance will be reported by custom authorities who were represented by Shahnawaz M.Sahito Advocate.

PCA SOUTH DETECTS RS 70 BILLION OF TRADE-BASED MONEY LAUNDERING BY SOLAR PANELS IMPORTERS, FIRS LIKELY

KARACHI: Federal Board of Revenue (FBR) had tasked Directorate of PCA South to carry out sector-based audit of solar penal importers to check twin aspects of over-invoicing and trade based money laundering (TBML).

An official said once the cases are lodged, cases may be referred to Intelligence & Investigation for lodging of FIR. State Bank of Pakistan also recently asked federal ministries to develop a list of reputed solar panel importers who can be permitted to import solar panels without the risk of money laundering and over-invoicing and the audit findings of FBR can be appropriately helpful in this respect. Director PCA South, Mr. Sheeraz Ahmed has submitted a report to FBR mentioning 63 solar panels importers who over-invoiced import value of Chinese origin solar panels while many importers were found to have a very weak financial worth to finance heavy imports and huge cash funds were found to have been deposited in the bank accounts of said importers. Total over-invoicing was detected at Rs. 70 billion against 63 importers. Mr. Sheeraz Ahmed, Director PCA South constituted a team comprising of Additional Director Gulam Nabi Kambo, AOs Abdul Gaffar, Hubban Ch., Fahad and Rehan, to carry out sectoral audit.

In view of higher number of importers/auditees, it was decided not to approach solar panel importers instantaneously without firming up findings viz-a-viz over-invoicing and trade-based money laundering based on desk audits which were carried out on the basis of WeBOC / customs data and market surveys for verification of retail prices of solar panels for work-back calculations to cross-check import values. Furthermore, to check possibility of use of illicit funds to finance imports, as provided under Section 26 B of the Customs Act, 1969, reliance was made on IRS's taxpayers' profile and sales tax / income tax return declarations and bank records to check proportion of cash transactions to determine obscurity of money trail and legitimacy of funds that were used to finance imports. TBML risk was evident due to use of vague descriptions and apparent over-invoicing amounting to more than Rs. 69 billion. To rule out use of black-money (illicit origin of funds) for TBML, the Directorate strategized to carryout following audit verifications:

Verification of return filing status under sales tax and income tax regimes to verify bonafide / genuineness of importing companies (to rule out use of dummy / shell companies).

Verification of ownership and business addresses to check physical existence and genuineness of the importers.

Verification of income tax declarations to ascertain financial worth (equity and liabilities) of the importers viz-a-viz import volumes to ascertain whether imports were financed by the owners / proprietors or through some obscured source.

Verifications of bank records to check money trail, origin of funds and quantum of cash deposits, that are used to obscure money trail.

Scrutiny of 90 days import data confirmed that during last five years (2018-2023) minimum import values of Chinese origin solar panels ranged between US\$ 0.08 to 0.16 per watt. To further ascertain objectivity of declared import values, workback calculations (through deductive method) were applied on the retail prices of Chinese origin solar panels as prevailing in the local retail market of Karachi and it was determined that bonafide import values of Chinese origin solar panels should have ranged below US\$ 0.22 per watt.

Contrarily, WeBOC data revealed that many GDs of the solar panel importers were declared at much higher import values i.e. US\$ 0.23 per watt or above. By setting the over-invoicing benchmark at (minimum) Rs. 40 million during last five years, the cumulative over-invoicing was detected in 6,232 GDs of 63 importers amounting to Rs. 69.5 billion; as declared import values of solar panels ranged between US\$ 0.23 to US\$ 2.26 per watt.

Scrutiny of import data and income tax declarations of 39 importers reflected high disparity between financial worth (equity and liabilities) and import volumes, such that 39 importers having financial worth of Rs. 14.7 billion, imported solar panels worth more than Rs 201 Billion (Annex-C). Similarly, scrutiny of bank-account records of 44 importers confirmed heavy cash deposits amounting to Rs. 47 billion (i.e almost 24% of the total bank deposits worth Rs. 193 billion). In many instances, heavy amounts (10 million or above) were deposited in the bank accounts as "cash transfers" in a single transaction, while in case of many bank accounts, yearly quantum of cash transactions was more than Rs. 20 million, that places said importers and bank accounts under high-risk suspected category for money laundering considerations in terms of FMU's reg flag indicators.

Scrutiny of financial flows revealed that import remittances were questionably transferred to third countries like UAE, Singapore, Switzerland etc. 22 importers (with imports remittances worth Rs. 50 million or more), transferred Rs. 16.5 billion to third countries (especially UAE and Singapore) whereas respective imports of solar panels had originated from China. Commercial banks allowed transfers of import remittances to third countries without any NOC from the Chinese exporters in violation of Foreign Exchange Regulations and SBP's instructions vide "Framework for Managing Risk for Trade Based Money Laundering and Terrorist Financing".

For instance, M/s Bright Star Business Solution Pvt. Ltd. (NTN 7290188), the leading importer of solar panels (also the leading offender of over-invoicing amounting to Rs. 30.6 billion) received cash deposits worth Rs. 14 billion (35% of total bank deposits), while the importer transferred Rs. 47 billion out of Pakistan against solar panel imports. The importer filed Nil income tax return for the FY 2020-21, and did not file income tax return for the FY 2021-22; while transferred import remittances worth Rs. 20 billion during these two financial years. Similarly, M/s Moon light Traders (SMC) Pvt. Ltd. transferred Rs. 23.7 billion out of Pakistan against solar panel imports while the importer did not file income tax return for the FY 2020-21 and filed Nil return for the FY 2021-22, and transferred import remittances worth Rs. 11.7 billion during said two financial years. Bank statements indicate business association between the said two suspected importers which, cumulatively, transferred Rs. 70.7 billion out of Pakistan on the basis of duty/tax free imports of solar panels, while their combined over-invoicing quantum stands at Rs. 37.7 billion in 2,925 import GDs. Upon physical verification, both units, located in the same commercial plaza of Peshawar, were found to be closed.

PCA South has submitted its findings to FBR for legal action in terms of Customs Act, 1969 and AML Act, 2010.

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