

FBR TO ENCOURAGE TAXPAYERS TO ADAPT TO ADRCS FORUM

ISLAMABAD: The Federal Board of Revenue (FBR) will encourage taxpayers to adapt to the forum of Alternate Dispute Resolution Committees (ADRCs) after revamping of the system through Finance Act 2022. Presently, litigation of Rs2.3 trillion involving 76,349 cases of Inland Revenue Service is pending courts' decision. The out-of-court settlement through the ADR committees would reduce time and money involved in litigation, sources said.

According to the sources, the mechanism of alternate dispute resolution has been revamped through Finance Act, 2022. Under the revised system, the disputes involving tax liability of one hundred million or above only can now be brought for settlement. Previously, there was no such bar for filing of application under this mechanism.

The decision by committee will be binding on both the taxpayer and Chief Commissioner Inland Revenue having jurisdiction over the case. Previously, it was binding on Chief Commissioner only after it had been accepted by the taxpayer though withdrawal of appeal.

Now, the disputes involving question of fact and law both can be brought by a taxpayer for settlement by the committee subject to the condition that decision by the committee will not be cited or taken as a precedent in any other case or in the same case for a different tax year. Previously, disputes involving interpretation of question of law having effect on other cases were specifically excluded from the purview of dispute resolution committee.

The scope of initial proposition has been expanded which now includes proposal from the taxpayer to settle the matter, including an offer for payment of tax which cannot be withdrawn. The choice available to a taxpayer to appoint a member of dispute resolution committee has been enhanced. Now a taxpayer can nominate a member from a panel notified by the Board in this regard or an Officer of Inland Revenue Service who has retired in BS-21 or above or a reputable business person as nominated by a Chamber of Commerce and Industry. The third member of the committee will be selected through consensus by Chief Commissioner Inland Revenue (being other member of the committee) having jurisdiction over the case and taxpayer's nominee member jointly from the panel notified by the Board.

Taxpayer and the Chief Commissioner Inland Revenue having jurisdiction over the case either individually or both as the case may be, will withdraw their appeal pending before a court of law or appellate authority after the constitution of committee but before commencement of proceeding by the committee. Previously, there was no requirement of withdrawal of appeal and the taxpayer could choose to pursue his appeals in case he did not accept the committee's decision.

The committee members will decide the dispute pending before the committee through majority. Earlier, consensus decision by committee members was required for dispute resolution. The changed procedure of dispute resolution will ensure that it is focused on high revenue yielding cases and does not result in wastage of time and resources for the taxpayer as well as field formations by being an effective alternative and not a parallel mechanism to the appeal process.

A study of the Federal Tax Ombudsman (FTO) on the Alternative Dispute Resolution (ADR) mechanism revealed that most taxpayers are not aware of the facility of the ADR available with the FTO for the resolution of their tax-related disputes.

TAX OFFICERS ACCUSED OF IMPOSING PENALTIES AGAINST AGRICULTURE INCOME

LAHORE: The Income Tax department has been found imposing penalties and default surcharges for late payment of agriculture income tax which, according to the tax experts, is illegal because the taxation of agriculture income is not a subject of Income Tax Ordinance, 2001.

According to sources, the tax authorities were issuing notices under the garb of absence of a proof for payment of provincial agriculture income tax and considering it as "income from other sources," and not as agriculture income. They said the tax officers were trespassing provincial domain by involving in such practices and in some cases penalty and default surcharge is being imposed even if a taxpayer produces a proof for payment of agriculture income tax.

The sources said the income tax authorities assume the role of a provincial authority to harass a taxpayer despite a clear distinction that the taxation of agriculture income is not a matter to be dealt with under the Income Tax Ordinance. Rather, it is a provincial matter and its collection and consequences of late payment or non-payment are governed by the provincial law. They added that the income tax authorities use their discrimination soon they find that the taxpayer has delayed payment of agriculture tax. The department refuses to extend the credit of agriculture tax against the creation of assets or expenditures made by the taxpayer.

In some cases, they said, taxpayers even do not claim any such credit except seeking declaration of agricultural income tax. However, the tax authorities prefer to impose penalty and default surcharge in case of late payment of provincial agriculture tax instead of leaving the matter to the discretion of the provincial authorities.

According to the sources, mostly the income tax authorities exercise such powers if a taxpayer had paid the agriculture income tax after the issuance of notice and initiation of proceedings before the appellate tribunals of the department.

The tax authorities deal all such matters under section 111 of the Ordinance which envisages an income as “unexplained” income or asset where any amount is credited in a person’s book of account, or he has made any investment or is the owner of any money or valuable article, having incurred any expenditure or concealed income or furnished inaccurate particulars of his income, suppressed any production, sales or any amount chargeable to tax or suppressed any item if receipt liable to tax in whole or in part. However, the assessment officers misuse their authority of satisfaction by ignoring the provision of law making it obligatory to accept any explanation related to agriculture income tax, the sources added.

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