

## **STEEL SECTOR CASES: FTO HELPS FBR RECOVER RS5.5B REVENUE**

LAHORE: The Federal Tax Ombudsman (FTO) has assisted the Federal Board of Revenue (FBR) in recovery of Rs 5.5 billion stuck up revenue in steel sector cases. The inspection team Constituted by FTO had made strenuous efforts and examined voluminous data provided by the corporate tax office, Lahore. For cross check, the team also retrieved the relevant data from Lahore Electrical Supply Corporation (LESCO).

According to FTO's findings in the subject inspection, there is a huge gap between number of exclusion certificates issued as per LESCO data and that of CTO, Lahore. Furthermore, the CTO Lahore did not have information regarding amounts deposited in treasury and corresponding CPR numbers which are of crucial importance. Also, non-production of record in respect of remaining exclusion certificates clearly depicts that the same fall in extremely grey area where instances of maladministration, misuse of authority, ulterior motives are likely to prevail. According to the FTO findings, based on examination of relevant record an amount of approximately Rs5.5 billion is suspected to be evaded in such cases at CTO Lahore.

The FTO has further observed that all the steel units which have had availed exclusion certificate need to be confronted by the FBR and amounts as per ECs must reconcile with the payment of sales tax at the relevant point of time and where ever there is a difference, it needs to be recovered. Further, in order to ensure fast recovery of this apparent loss of Rs.5.5 billion, the FTO has recommended the FBR to re-locate the jurisdiction of Steel Cases from Corporate Tax Office (CTO) Lahore to Large Tax Office (LTO) Lahore or Regional Tax Office (RTO) Lahore for a more independent and effective recovery proceedings. Similarly, any officers/ officials having any link in the past, with the cases of steel melters must not be associated or assigned the fresh jurisdiction of said cases.

The FTO has also recommended FBR to recover the loss incurred on priority basis through its investigation arm, Directorate General I&I-IR. Internal investigation on all Pakistan basis, with special emphasis at Lahore, solely aiming at recovery of loss incurred is required probing all cases of exclusion certificates. It may be noted that in order to facilitate steel sector special procedure rules were introduced since 2007. According to the Rules, collection of sales tax from steel melters/re-rollers/composite of melters and re-rollers having single electricity meter was charged at specified rates under Rule 58H of Sales Tax Special Procedure Rule, 2007. The above levied sales tax was collected through monthly electricity bills on the basis of consumption of electricity. However, subsequently, in the year 2014, sub Rule (3A) was inserted under Rule 58H of the above said Rules with effect from 04.06.2014.

## **BR OPINION: PLACE OF PROVISION OF SALES TAX ON SERVICES RULES**

**2023**

Introduction: In Pakistan, sales tax on value-added basis is levied both on goods and services. There are numerous organizations and persons who operate on a national basis and their services are rendered or provided in more than one province.

Under Entry 49 of the Federal Legislative List of the Fourth Schedule to the Constitution of Pakistan, the right to levy and charge sales tax on services lies with the Provinces, except Islamabad Capital Territory.

After the 18th Amendment of the Constitution in 2010 all the provinces have over time introduced their own sales tax on services legislations, which are applicable on services which have been made chargeable under the respective legislations. Islamabad Capital Territory is governed by a separate legislation.

What is chargeable to tax by a particular provincial legislation is not as simple as it appears. There are arguments for the contention that value-added taxes on services are to be charged at the location where provision or rendering of services originates.

However, there are equally solid views that services are to be taxed at the location where such services are consumed, received or terminated. There cannot be any specific answer to this matter and this subject has to be handled administratively.

There has to be clear regulations for determining the place of provision of services. Taxpayers should not be taxed on the same services twice and at the same time each Province is to receive its due share of tax on services rendered or provided in that province.

This subject has now been handled in the rules issued by the Federal Government and all the Provinces by the name 'Place of Provision of Service Rules 2023'. This is positive development to harmonise the sales tax on services regime in the country.

### **What is the issue? Right to tax**

Under all the Provincial and Islamabad legislations the terms 'Provision of Services' and 'Rendering of Services' has been defined. This definition has been placed to identify that statute's intention to determine the location where a service is considered to be provided or rendered.

For example, sub-section (68) of Section (2) of the Sindh Sales Tax on Services Act, 2011 defines the same as under:

"provision of service" or "providing of service" includes the rendering, supply, initiation, origination, reception, consumption, termination or execution of service, whether in whole or part, including e-services where the context so requires;

This means that a service can be treated to have been provided or rendered in Sindh if it:

- a. is initiated; or
- b. originates; or
- c. received; or
- d. consumed; or
- e. terminated; or
- f. executed in Sindh

It is quite possible that a service which is initiated in a province is consumed in another province. In this situation both the provinces have the right to tax that service. This leads to double taxation of one transaction and practical problems which cannot be sorted out by any litigation.

### **Administrative settlement:**

This subject can only be handled administratively between the Federation and the Provinces. It was therefore necessary that all the Provinces and the Federation should agree on one basis for the place of provision of services for the charge of sales tax on services. Once this basis is settled then the Federation or the respective Province will not charge sales tax on services on any other basis for the place of provision of service even though possible in law. .

For example, under these regulations it has been agreed that in the cases of transmission of electricity and transportation, if the services originates in one province and terminates in another province then the tax shall be shared equally between the two provinces. This is an administrative solution. There is no legal and technical manner to sort out this issue.

### **Specified Services**

Rules have been provided for seven kinds of services. For the remaining services the general provisions will continue to apply. The specified services are:

- a. Advertisement: 98.02 and the sub-heads thereof in the Second Schedule to the Act;
- b. Advertising agents: 9805.7000;
- c. Electric power transmission services: 9854.0000;
- d. Insurance: 9813.1000 and the sub headings;

e. Insurance Agents: 9855.0000;

f. Franchise and Intellectual property: 9823.0000 and 9838.0000, respectively; and

g. Transportation or carriage of goods by road or through pipeline or conduit: 9836.0000;

The manner of determining the basis of place of provision of service each specified service is described in the following paragraphs:

#### **Advertisement**

a. TV Advertisements:

1. broadcast through satellites: the location of the beaming station i.e., the broadcast station uplinking the advertisement content; and
2. broadcast through terrestrial signals: location of the first broadcast station

a. Advertisement on Internet Protocol TV (IPTV): the location of the licensing zone as specified in PEMRA licence for IPTV;

b. Advertisement on Cable TV or the TV using other distribution service: the location of the area of coverage assigned to the person holding the PEMRA licence;

c. Advertisement on Closed-Circuit TV: the location of the Closed-Circuit TV system;

d. Advertisement on website or webpage or internet: the person owning or managing such website or webpage or internet;

e. Advertisement on radio broadcast: the broadcast station uplinking the advertisement content;

f. Advertisement on radio broadcast through terrestrial signals: the location of the first broadcast station;

g. Advertisement on still media including billboards, sign boards, digital boards, poles, etc: the place of provision of service shall be the location of such still media;

h. Advertisement on cinema screens and advertisement through aerial banner towing or smoke writing: the cinema house and the jurisdiction in which the aerial advertising is performed.

#### **Advertisement involving non-residents:**

a. Where the advertisement is booked in one Province for placing on the web or internet of persons not resident in Pakistan, the place of provision of service shall be the location of the person booking such advertisement for such non-resident owner of the web or internet;

b. Where the advertisement is booked in at any place in Sindh for broadcasting on channels beamed or uplinked from a place outside Pakistan, the services of advertisement shall be deemed to have been provided in that Province irrespective of the fact whether or not the channel has PEMRA's landing rights permission in Pakistan.

#### **Advertisement Agents**

Advertising agents shall be deemed to be located with respect to the place of provision of services at the place of business where an advertisement is booked.

### **Electric power transmission**

- a. For electric power transmission services where origination and termination is in different provinces the tax involved is to be shared equally by the Provinces in which the transmission originated and in which such transmission terminated. This treatment is effectively in line with the treatment earlier made for carriage of petroleum where a 50:50 formula was agreed;
- b. If the rate of tax leviable in the Province in which the transmission originated is different from the rate of tax leviable in the Province in which such transmission terminated, the invoice shall clearly indicate the amount of tax payable to the respective Provinces as determined on the basis of the respective rates of tax on 50 per cent of the value of that inter-province transmission service;
- c. Where electric power transmission originates and terminates in one and the same province: the Province itself;
- d. If there is no tax on place of origination then whole tax shall be chargeable at the place of termination;
- e. If there is no tax on place of termination then whole tax shall be chargeable at the place of origination;

### **Insurance and reinsurance.**

- a. Life insurance and health insurance services, whether for an individual or a group of individuals, the location of the office or the branch of the insurance company providing the insurance service to the individual or to the person acquiring the services of group insurance, as the case may be;
- b. Insurance of immovable property: the location of the immovable property insured or to be insured;
- c. Insurance of movable property: the location of the movable property where it is registered by the respective registration authority, e.g., a car;
- d. Insurance of movable property other than the ones requiring registration: the location of such movable property at the time of insurance thereof;
- e. Marine insurance of goods: the port of embarkation or dis-embarkation in Pakistan of the respective goods;
- f. Reinsurance services: the location of the office or branch of the person providing the reinsurance services in Pakistan;
- g. Reinsurance services provided or rendered by a reinsurance company not resident in Pakistan: the location of the resident insurance company receiving or procuring such reinsurance services.

### **Insurance agents and insurance brokers.**

- a. Insurance agents: the location of the office or branch of the insurance company paying an amount of commission to the respective agent;
- b. Insurance brokers: the location of the person paying the remuneration, commission or fee to the insurance broker;
- c. Insurance broker receives remuneration, commission or fee from a place outside Pakistan: the location of the insurance broker in Pakistan.

### **Franchise Services and Intellectual Property**

- a. Franchise services and intellectual property services provided or rendered by a person, whether resident in Pakistan or otherwise: the location of the resident person receiving or procuring such services. This therefore means that taxable entity is the person receiving such services;

b. Franchise services and intellectual property services provided by a resident person are not levied in a Province or area in which such services are received or procured: the location of the resident person providing or rendering such services. If the recipient is not taxable by way of law then the service provider is a taxable person.

### **Transportation of goods**

In case of transportation services separate provisions have been introduced for a company and non-company cases.

For Company cases:

a. For Transportation by road or by any person in relation to transportation through pipeline or conduit, is in different provinces as to origination and termination the tax involved is to be shared equally (50:50) by the Provinces in which the transportation by road or by any person in relation to transportation through pipeline or conduit, transmission originated and in which such transmission terminated;

b. If the rate of tax leviable in the Province in which the transportation originated is different from the rate of tax leviable in the Province in which such transportation the invoice shall clearly indicate the amount of tax payable to the respective Provinces as determined on the basis of the respective rates of tax on 50 per cent of the value of that inter-province transport service;

c. Transportation of goods by road or through pipeline or conduit originates and terminates in one and the same province the place of provision of service shall be the itself;

d. If there is no tax on place of origination then whole tax shall be chargeable at the place of termination;

e. If there is no tax on place of termination then whole tax shall be chargeable at the place of origination;

Transport services by non-company cases:

Goods by road: the location of the booking office of the person transporting the goods.

### **Special Provisions for Carriages of Petroleum**

In case of the services, provided or rendered by persons, whether a company or otherwise, in relation to road transportation of petroleum oils, the provisions of the Sindh Sales Tax Special Procedure (Transportation or Carriage of Petroleum Oils through Oil Tankers) Rules, 2018 shall apply. These rules work on the following basis:

“Where, inter-province oil movement originating from within the jurisdiction of one province and terminating in other provinces shall share the withheld amount of sales tax at 50:50 percent respectively.

The distribution formula i.e. (50% at origination and 50% at termination) and uniform rate of 15% of sales tax on inter-province oil movement, is in accordance with agreement of the meeting held on 13th September, 2017, as circulated under the Ministry of Energy (Petroleum Division), Islamabad’s letter No. DOM- 1(24)/2015-III dated 22nd September, 2017”.

### **Apportionment of Input tax**

The input tax will be allowable only to the extent to which the services are chargeable to tax under the aforesaid basis.

Savings.— In case of the services not covered by the provisions of these rules, the provisions of the Act and the Sindh Sales Tax on Services Rules, 2011, to the extent as may be relevant to those services, shall mutatis mutandis apply for the levy and collection of Sindh sales tax on such services.

## **THE CHALLENGE OF SMUGGLING: PM DIRECTS SUPARCO TO PROVIDE REAL-TIME SATELLITE IMAGERY**

ISLAMABAD: Prime Minister Shehbaz Sharif Monday directed Suparco to provide real-time satellite imagery of the country's borders and traffic data to prevent smuggling.

The prime minister directed this while chairing a meeting on the smuggling of wheat, flour, sugar, and urea. The prime minister issued instructions to the concerned institutions to increase the number of these check posts. He directed the chief secretary Punjab to supply the sugar seized in the recent failed smuggling attempts to the vendors and ensure that it is sold at the government-fixed rate of Rs95 per kg. He directed the Federal Minister for Food Security to call a meeting of the Sugar Advisory Board today to determine the support price of the sugarcane crop. He also directed to implement these measures and submit a report within two days.

The premier was informed about the measures taken by the Federal Board of Revenue (FBR), the Ministry of Interior, and the law enforcement agencies to prevent smuggling between provinces and outside the country. The meeting was told that a nationwide operation is underway to prevent the smuggling of urea fertilizer and sugar. The meeting was further informed that on Sunday 49 trucks were seized by the FBR and law enforcement agencies, while FC also foiled attempts to smuggle thousands of tons of urea and sugar and took the items into their custody.

Joint patrolling teams are being established to stop cross-border smuggling, while four joint patrolling check posts have been established in Balochistan on the advice of intelligence agencies, where law enforcement agencies and the FBR will work together. The meeting was told that along with the identification of godowns in the border districts, the items caught in the failed smuggling attempts are being delivered to the dealers and facilitators under the track and trace system.

The meeting was also informed about the prepared list of names of officers who facilitate smuggling. In the meeting, the representatives of the sensitive institutions said that not only the smuggling items and their routes have been identified, but also the people involved have been identified, but action is also being taken against them. It was further informed that 740 godowns used for storage in the border districts of the entire country have been identified. In the last four days, 2,800 metric tons of sugar and 1,400 metric tons of urea have been seized by law enforcement agencies during various operations.

## **FOUR 'ESSENTIAL' COMMODITIES: CUSTOMS GIVEN LEGAL BACKING TO TAKE ACTION AGAINST SMUGGLING**

ISLAMABAD: The Federal Board of Revenue (FBR) has declared wheat and wheat flour, sugar and urea as "essential commodities" to take action against smugglers of these items during the holy month of Ramazan.

In this regard, the FBR has issued SRO 495(I)/203 here on Monday. The decision is a part of the strategy for countrywide action to eradicate the smuggling of sugar and other items. According to the notification, the Board has notified the following goods as essential commodities: wheat and wheat flour, sugar and urea. Through this notification, the FBR has given legal backing to the Customs department to take action against the smuggling of "essential commodities" i.e. wheat and wheat flour, sugar and urea. Prime Minister Shehbaz Sharif has already authorised a major crackdown against smuggling and hoarding of sugar and profiteering.

The FBR has also included these items in the list of commodities which are subjected to heavy penalties and offences in case of smuggling. According to the sources, the government has decided to take strict action against those elements involved in smuggling of essential items and to make border control system more active and monitor interprovincial transportation.

The Interior minister reiterated the government's resolve to take strict action against elements involved in smuggling and their facilitators. The Interior minister has instructed to prevent the excessive supply of essential commodities in the border districts and take action against those involved in the excessive stocking. He said strict action will be taken against officers and staff involved in smuggling. For this purpose, he stressed the need of launching joint operations and intelligence sharing of the institutions. The smuggling of essential commodities out of the country needs an emergent step to control it. The FBR will ensure strict action against those who are involved in this illegal activity as well as their facilitators.

The implementation of joint check posts and joint patrolling should be ensured as soon as possible. There is a need to make the border control system more active and monitor interprovincial transportation to check smuggling of essential commodities, sources added.

## **MCC APPRAISEMENT DETECT REVENUE EVASION OF RS17 MILLION**

KARACHI: MCC Appraisal East has detected gross revenue evasion by certain importers through fraudulent tactics and mis-declaration of imported goods.

Information was passed through Collector Amir Thaim to Additional Collector Tahir Abbas disclosing the modus operandi for clearance of consignments of ex-bond GDs by manipulating the system and alteration in the insurance amount by feeding it in negative in WeBOC system thereby causing huge impact on the total value of duties and taxes by three importers namely Anjum Saleem of M/s. Tabeer Textile (Pvt) Ltd, Nasir Jamal proprietor M/s. A. M. Trading Corporation Mukhtar Ahmed proprietor of MA. Phoenix Industries.

These importers imported various consignments and filed Into-Bond GDs by self except M/s. Tabeer Textile whose GDs were filed by Customs Clearing Agent M/s. L. J Corporation.

Assistant Collector Umme Kulsoom formed a team comprising Appraiser Aijaz But, Appraising officer Ghani Soomro and Senior Preventive officer Malik Hashim. The record of all of the above three importers was scrutinized and it transpired that insurance amount was declared 1% at the time of filing into bond GDs, whereas, \$26, \$7 and \$9 was declared in some of the GDs.

However, at the time of Ex-Bonding, the said importers filed Goods Declaration by manipulating the system thereby causing huge loss of amounting to Rs15.11 million to national exchequer.

Collectorate of Customs, Appraisal (West) took cognizance of the similar omission and lodged FIRs apprehending identical response from the Collectorate of Customs, Appraisal (East), M/s. Tabeer Textiles (Pvt) Ltd M/s. A. M. Trading Corporation and M/s. Phoenix Industries made payment of the evaded duty and taxes to the tune of Rs15.11 million thereby corroborating the criminal intent of the importers.

Moreover, Customs Appraisal East lodged FIR against Tassawar Ali Tabassum of M/s Y.S. Industries and others for evading duty/taxes of Rs1.84 million by mis-declaring the actual description, PCT, weight, value and replacement of lab samples on the import of palm fatty acid distillate.

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### **WTO PANEL RULES AGAINST INDIA IN IT TARIFFS DISPUTE WITH EU,**

#### **OTHERS**

GENEVA: A World Trade Organization panel said on Monday that India had violated global trading rules in a dispute with the European Union, Japan and Taiwan over import duties on IT products. "We recommend that India bring such measures into conformity with its obligations," the WTO panel's report said. In 2019, the EU challenged India's introduction of import duties of between 7.5% and 20% for a wide range of IT products, such as mobile phones and components, as well as integrated circuits. Japan and Taiwan filed similar complaints that same year.

The EU is India's third largest trading partner, accounting for 10.8% of total Indian trade in 2021, according to the European Commission. India can appeal the WTO panel's decision. Its diplomatic mission in Geneva did not immediately respond to a request for comment.

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