Tax Review/Taxation

Daily Alert Services

Huzaima & Ikram
October 21, 2013

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This issue contains:

Kind regards

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Discriminatory tax regime

Editorial, Courtesy Business Recorder
Dated October 19, 2013

The growing perception in Pakistan that powerful lobbies in the country do easily escape the tax net is not without reason. According to a report in this newspaper on 14th October, 2013, the field formations of the Federal Board of Revenue (FBR) have failed to take effective action towards taxation of the income and assets of the parliamentarians declared in the nomination papers filed by them when they contested last elections. It was revealed that FBR had implemented a full-fledged strategy at national level for verification of tax details declared in nomination papers and after completing the exercise, these details were forwarded to field formations for further verification and initiation of legal action in cases of glaring discrepancies. However, despite a lapse of more than 5 months, these formations have failed to report even a single case where notable action was taken or taxes recovered. In addition to the details of the income declared by the contesting candidates of Elections 2013, field formations have also been provided details about glaring instances of tax evasion in a number of other cases. Field formations have also been dragging their feet on all this information and no practical steps have been taken for swift finalisation of these cases.

The above report is a telling example of the overall tax culture of Pakistan where people with clout and at the helm of affairs of the country can easily browbeat the system for their vested interests and government functionaries are too weak and ineffective to firmly deal with tax evaders or ask ‘inconvenient’ questions. It is a known fact that politicians with large incomes derived from a variety of sources have either remained outside the tax net or their tax contribution has been ridiculously small as compared to their colossal assets and stream of income. For instance, during the previous elections, the FBR compiled data related to the income declared and tax paid by the contesting candidates for the last three years. As interesting feature of the details available on the website of ECP is that majority had declared their annual income less than Rs 0.5 million which was clearly incorrect when compared with the assets declared in their nomination papers, money spent on election campaigns and their lavish lifestyles. The sad fact is that it is not only the politicians who are bullying the system but lots of other groups like agriculturists and certain other lobbies have also either managed to keep themselves outside the tax net legally or are untouchables for tax authorities. The implications of such a distorted system are obvious. The tax-to-GDP ratio has dropped to less than 10 percent, forcing the government either to beg or borrow money to run the government affairs while the fiscal authorities continue to overburden the honest taxpayers who are generally too weak to raise their voice. Not only that, they are also often harassed on various pretexts by the tax collecting staff to get bribes. On top of that, parliamentarians and other powerful people are rewarded in various forms through the government exchequer while ordinary taxpayers are deprived of the basic needs and the tax money is not spent on their welfare. This is in sharp contrast to the general practice in other countries where no discrimination is made between sectors and groups of people insofar as tax matters are concerned and the public money is spent judiciously. In our view, this is high time for the government to change its fiscal policy attitude, firm its spine and show the muscle to ensure that all classes of people are treated fairly, equitably and with an iron hand, irrespective of their status in society. This is perhaps the only way to restore the credibility of country's tax machinery and mobilise optimal level of resources for growing expenditure requirements of country's economy.

Pakistan's foreign exchange earnings

by
Anjum Ibrahim

If one is to extend appreciation to any one (individual or group of people) for saving the Pakistani economy from complete collapse it is not our finance ministers from Dar to Shaukat Aziz to Dar again or to any political party, though the scales of destructive policies have varied from government to government, but to our emigrant workers and exporters.

Remittance income through legal channels helps pay for essential imports and reduce the pressure on our balance of payment position. Exporters are more molly coddled as a valuable source of foreign exchange but over time have contributed to leakages within the system through over-invoicing and abuse of incentives notably the tax refund scheme which may not necessarily be through complicity of an exporter. In 2012-13, total exports were estimated at around 24.7 billion dollars while the comparable figure for the previous year 2011-12 was 24.6 billion dollars. Remittance income for 2011-12 was 13.1 billion dollars while for 2012-13 the amount was 13.9 billion dollars. In short, remittance income has become around 55 percent of total exports. So what are the incentives that are extended to exporters as well as those who remit money?

Successive governments have provided considerable incentives to exporters as they fuel the domestic economy through a contribution to national income, in providing employment and also provide support to the domestic currency through strengthening the balance of payment position. The list of incentives is exhaustive and includes: (i) State Bank of Pakistan (SBP) sponsored Credit Incentive Scheme (CSI) which provides short-term working capital for 180 days to increase exports with

(a) transaction-based scheme coverage to the extent of 100 percent of the export order/LC contract, available at pre- and post-shipment stage, to indirect exporters at pre-shipment stage only, and performance required against every transaction, and (b) performance-based which is available to direct exporters only who are allowed a revolving cash credit limit equivalent to 50 percent of the total value of their goods exported the previous year, and performance is determined on the basis of export of eligible items made the previous year with the mark-up rate last year being 7.5 percent plus one percent spread of banks; (ii) long-term financing to be provided to export-oriented industry (new as well as existing), and mark-up rate 6 percent for three years and 7 percent for over three years to 7.6 percent; and (iii) tax incentives include income tax 0.75 percent of export proceeds, export development cess 0.25 percent, customs duties DTRE and sales tax zero-rated.

However, many exporters are tempted to engage in under-invoicing, especially with a fast eroding rupee value, which perhaps partly explains why total exports remain low while accounts held by Pakistanis in Swiss accounts have reached 100 billion dollars. In addition, there is much abuse of export refund scheme at a considerable cost to the national treasury. There are other issues with specific exports notably the textile sector, the largest export earner for the country, where issues erupt within its sub-sectors which require government intervention necessitating a dedicated federal ministry with its own costs. There is a need for the government to focus on proactively investigating those engaged in under-invoicing, which would require dedicated forensic experts, and allow an established industry like the textile industry, to operate within a free market system both domestically and internationally. Incentives and interventions must be focused on units engaged in new non-traditional exports.

Pakistan Remittance Initiative (PRI) was launched in 2009 by the SBP and its success can be gauged by the rise in remittance income from 6.4 billion dollars in 2008 to 12 billion dollars in 2011 through legal channels. So what incentives were extended to expatriates that led to higher inflows through the legal channels? The SBP initially allowed five banks (MCB, ABL, HBL, NBP and UBL) to transfer and settle interbank transactions into beneficiaries' accounts on the same day and thenceforth to undertake liquidity management for reserve requirement and cash management at key geographical ATM and branch levels to accommodate the anticipated increased volume and ensure smooth delivery of remittances to the beneficiaries/account holders. SBP also provided the facility to securely exchange data pertaining to interbank transactions online and launched a performance-based scheme whereby the government reimbursed marketing expenses of an overseas entity to the tune of 0.5 percent on incremental income above 100 to 400 million dollars from a particular jurisdiction, 0.75 percent for 400 to 800 million dollars and one percent on remittance above 800 million dollars.

The Pakistan government also introduced a foreign exchange remittance card which allows the following benefits: (i) special handling at arrival and departure at airports. However, the existing set-up is so mismanaged with no enforcement of forming orderly lines that it remains an ordeal clear immigration and customs, (ii) free issuance and renewal of passport but only for one year after issuance of the card, (iii) duty card will be issued and its points would depend on the amount remitted per year and would be like a frequent flyer points namely allow the holder to purchase from duty free shops and get special handling. The Pakistan Ambassador to the UAE stated this month that “those who remitted more than $15,000 last year can submit the receipts of remittances to the embassy and they will be given the appreciation certificates. We don’t depend on any other official verification in this regard.” When asked why some overseas Pakistanis continued to use illegal channels to remit money he explained “Most of the Pakistani expatriates are uneducated blue collar workers. They have a misconception that if they remit money through legal channels, they have to pay some sort of tax to the Pakistani government. There is no such law. Moreover, it is free of charge to remit money to Pakistan through banks or exchange centres. There is no charge at all.”

However, Transparency International Pakistan (TIP) raised some serious allegations of fraud by banks with Governor SBP Yasin Anwar. The TIP’s letter alleges that it has received a very serious complaint on the misuse of Pakistan Remittance Initiative and estimated loss to exchequer of 6.67% by alleged collusive practice of banks and SBP. TIP has requested the Governor to kindly examine the allegations made by the complainant, and if found correct, take immediate remedial measures without any further loss of time. One would hope that this concern has been appropriately dealt with.

Exports and remittance income through legal channels must rise further if the pressure on the balance of payment position is to ease and thereby strengthen the rupee. Work has been done in this regard by former governments but the PML-N needs to begin to plug leakages before launching their own schemes designed to raise exports and encourage remittance through the legal channels.

Tax exemption on 70 items to be withdrawn under IMF's directives

The government has reportedly finalized the draft regarding gradual removal of exemption of sales tax over more than 70 items, with first phase realizing withdrawal of SROs until December, over IMF's directives.

Deliberating over the issue, a senior officer of FBR (Federal Board of Revenue) states that all recommendations regarding withdrawal of these SRO's (Statutory Regulatory Order) had been prepared by a 6-member committee formed by FBR on directives of finance minister, constituting of additional finance secretary (budget), FBR members of land revenue policy, member customs, member strategic planning, member research and statistics and member National Tariff commission, took a comprehensive view of more than 150 items related to fertilizer, pharmaceuticals , defense stores and others, and previously exempted from sales tax.

This withdrawal of exemption from sales tax, whose draft would be presented to finance minister, after his arrival in Pakistan, is expected to net revenue of an additional Rs 24 billion to FBR.

Sources have also added that FBR was authorized to annul any exemptions over sales tax according to 6th schedule, of sales tax act 1990, section 13. Among other actions being mulled over include termination of any special sales tax schemes, enforcing normal regimes.

It has also been disclosed that all SROs, custom duties discriminating against importers, are also being in the process of being terminated, as decided according to IMF conditions and in order to discourage any economic disparity in accordance with government's 3-year trade competitive program.

World Bank and IMF officials have also been informed about the issue by Pakistani economic delegation during the sidelines of annual sessions of IMF and World Bank in Washington. – *Courtesy The Frontier Post*

Sales tax registration: FBR taking policy measures to facilitate companies, investors

The Federal Board of Revenue has decided to take some policy measures to facilitate sales tax registration of new companies and investors, enhance role of the Local Registration Offices (LROs), 'One-Stop Shop' for new entrepreneurs/non-resident companies and further simplify sales tax registration forms. It is learnt here on Friday that the FBR will bring some key changes in the sales tax registration processes to facilitate the new entrants as well as existing sales taxpayers.

In this regard, FBR has issued necessary instructions to the Pakistan Revenue Automation Limited (PRAL). Firstly, the FBR would amend sales tax registration form to incorporate new provisions. Under the proposed changes, the new applicant would know about the exact details to be provided for obtaining new registrations. By opening the new registration form, the applicants would exactly know the status/category, details to be provided with application and other requirements to be fulfilled. This would facilitate the new applicants to electronically obtain all details needed for registration of new taxpayers.

Another major policy shift would be increase in the powers of the LROs so that the new taxpayers from different cities should not have to repeatedly come to Central Registration Office (CRO) at FBR House Islamabad for different queries. The taxpayers should contact the LROs for new sales tax registrations, blocking and de-blocking of sales tax registrations, change of jurisdiction, change in particulars and other issues, which would be addressed at the local level. Presently, FBR is the custodian of the main database containing all information about the registered as well as new taxpayers. The FBR is expected to transfer powers of the CRO to the LROs across the country under proposed policy of decentralisation. Under the new policy, all matters of the new sales tax registrations would be handled by the LROs.

The FBR has also decided to establish 'One-Stop Shop' for new entrepreneurs, non-resident companies and investors, enabling new firms to complete all legal formalities under a centralised place without separately going to the FBR, Securities and Exchange Commission of Pakistan (SECP) or other government departments. The main purpose of creation of 'One-Stop Shop' is to reduce the hassle for new investors in obtaining permissions, business registrations and other government requirements. At present, a new investor has to go to the SECP for obtaining registration. Investor also has to visit the FBR to obtain before starting new businesses.

Similarly, the investor has to visit various government departments for obtaining permissions, registration certificates and National Tax Numbers/company's registration. Instead of visiting different government departments, the ‘One-Stop Shop’ would provide all facilities to new investors under one roof. The establishment of the ‘One-Stop Shop’ would encourage new businessmen to complete business formalities in short time, sources added. – *Courtesy Business Recorder*

Steps taken to raise tax-to-GDP ratio: provinces, FBR told to provide details

The Finance Division has asked the Federal Board of Revenue (FBR) and provinces to give details of measures being taken to raise tax-to-GDP ratio to 15 percent by 2014-2015 under the National Finance Commission’s (NFC) 2010 recommendation. Sources told here on Friday that this would be discussed in the upcoming meeting of provincial Finance Secretaries, FBR and Finance Division.

The 2010 NFC Award recommended that “the federal government and provincial governments should streamline their tax collection systems to reduce leakages and increase their revenues though efforts to improve taxation in order to achieve a 15 percent tax-to-GDP ratio by 2014-15.

Provinces would initiate steps to effectively tax agriculture and real estate sectors. “The federal government and provincial government may take necessary administrative and legislative steps accordingly,” it said. FBR and Provincial Finance Secretaries would update the Finance Division on the efforts being taken to meet this target. Provinces would also highlight their efforts to raise tax revenues at provincial level, sources added. The FBR envisages an increase in tax:GDP ratio from existing 9.1 percent to over 10 percent in 2012-2013 by taking administrative measures of Rs 176.1 billion including an amnesty scheme that legalises un-disclosed assets. – *Courtesy Business Recorder*

Processing issues in web-portal: FBR may miss direct tax target

The Federal Board of Revenue is likely to remain far behind from its direct tax revenue target as the processing issues in FBR web-portal are hampering taxpayers from submitting their income tax returns, learnt on Friday. According to sources, taxpayers are facing immense difficulties in e-filing of income tax returns, due to processing issues in FBR web-portal.

They said that most of the links on the website were inactive, adding that the retailers' profiles were also not updated making the taxpayers unable to e-file returns. Moreover, the sources said the taxpayers in the computation section are not allowed calculation and in normal return, marginal tax is wrongly calculated with a difference of Rs 4 in all marginal working.

The sources said the system designated to e-filing of returns caught bugs that added to the woes of the taxpayers. He added that the taxpayers are presently facing printing and saving problems in some Annexure. They urged the authorities to pay heed to these issues to ensure maximum revenue generation on account of direct taxes. – *Courtesy Business Recorder*

Reforms in tax administration: FBR wings asked to devise policy to remove snags

The Federal Board of Revenue has directed all its wings to immediately chalk out a uniform policy to address major issues hindering smooth implementation of reforms in the tax administration. Sources told here on Friday that FBR Member Human Resource Management (HRM) Raana Seerat has issued instructions to all FBR wings to identify gaps and problems in the respective departments for devising a policy to resolve the issues.

The policy would ensure improved performance at all FBR Wings in next six months. According to the FBR Member HRM, a presentation on 'Change Management' was made by the World Bank Mission to all the Members of the FBR. During the presentation, it was emphasised that all the wings of the FBR need to evolve their 'Mission Statements' to keep their activities aligned to the same and keep track of their progress towards the desired goals.

Moreover, it has been desired by the FBR Chairman that the Members may undertake an immediate exercise to formulate the following policy documents for their respective wings: Mission Statements of the FBR Wings; existing and potential gaps/shortfalls impeding or likely to impede the Wings progress towards realisation of the objectives enshrined in their 'Mission Statement' and a workable strategy to plug the gaps identified.

The strategy must also address the question as to how do the Wings envisage their performance in the next six months time. The task would be completed by the FBR's Wings within one month. The mission and strategy document would be forwarded by the Wings to the HRM Member for further consideration, Raana Seerat added. – *Courtesy Business Recorder*

2013 TRI 1711 (H.C. Bom.)

HIGH COURT OF BOMBAY

Mohit S. Shah, Chief Justice and M.S. Sanklecha, J.

Sales Tax Tribunal Bar Association & Ors.
v
State of Maharashtra

FACTS/HELD

High Court irked by apathy of Government towards the (non) working of the Sales-tax Tribunal despite 4000 pending appeals with revenue effect of Rs. 4,500 crore

1. The Sales Tax Tribunal Bar Association filed a Writ Petition seeking certain directions relating to appointment of Members of the Sales Tax Tribunal. The High Court passed an order dated 06.09.2013 in which it expressed surprise that despite revenue of about Rs.4,500 crores which was locked up on account of pending litigation, the Government had not bothered to fill vacancies in the post of Members. The Government sought 4 weeks to consider the matter. Now HELD by the High Court:

   (i) The problem highlighted by the Petitioner appears to be very genuine and quite serious. It appears that the policy of the State Government is not to give official accommodation to members of such Tribunals if they are retired Administrative Officers / Police Officers / Judicial Officers. Official accommodation is being provided to only those who are in service before reaching the age of superannuation. This Court fails to understand why the State Government should not provide official accommodation to the members of Administrative Tribunals even if they have retired and are now employed after their retirement;

(ii) The other major problem is that out of the sanctioned strength of 10 members (5 Judicial and 5 Administrative), at present there is only one President, who is a retired Judicial Officer, and 2 administrative members. That means as against the strength of 10, there are only 3 persons manning the post of President and members of the Sales Tax Tribunal at Mumbai. This also appears to be a very serious matter. The State Government shall take necessary steps for filling in the vacant posts;

(iii) Retired Administrative Officers / Police Officers / Judicial Officers would be willing to accept the assignment only if they are given official accommodation and, therefore, let the State Government first decide the question of providing official accommodation to the members from amongst the retired persons;

(iv) When the pendency before the Maharashtra Sales Tax Tribunal is more than 4000 appeals, it is high time that the issue is taken up very seriously at all concerned levels.

Order accordingly.

Writ Petition No. 8023 of 2013.

Decided on: 17th October, 2013.

Present at hearing: P.C. Joshi with Nikita Badheka, Ratan Sakpal and Hemant Save, for Petitioner. V.P. Malvankar, "A" Panel counsel, for Respondent.

JUDGMENT

P.C.–

Learned counsel for the petitioner Association states that now another retired Judicial Officer Shri A.K. Gunjotikar has been appointed as a member of the Maharashtra Sales Tax Tribunal by an order dated 27 September 2013, but the said Judicial Officer is going to face the same difficulty and, therefore, he may not accept the assignment if he is not granted accommodation.

2. Learned counsel for the respondent State states that the State Government requires 4 weeks' time to take a policy decision in the matter.

3. The problem highlighted by the petitioner Association appears to be very genuine and quite serious. It appears that there are large number of Administrative Tribunals which are required to dispense justice to a large number of persons in the State of Maharashtra. Apart from Sales

Tax Tribunal, there are other Tribunals and it appears that so far the policy of the State Government is not to give official accommodation to members of such Tribunals if they are retired Administrative Officers / Police Officers / Judicial Officers. Official accommodation is being provided to only those who are in service before reaching the age of superannuation. This Court fails to understand why the State Government should not provide official accommodation to the members of Administrative Tribunals even if they have retired and are now employed after their retirement.

4. The State Government shall therefore consider providing official accommodation to the members of Administrative Tribunals even if such members are employed after their retirement from Administrative Service / Police Service / Judicial Service.

5. Coming to the other major problem being highlighted by the petitioner Association, it appears that out of the sanctioned strength of 10 members (5 Judicial and 5 Administrative), at present there is only one President, who is a retired Judicial Officer, and 2 administrative members. That means as against the strength of 10, there are only 3 persons manning the post of President and members of the Maharashtra Sales Tax Tribunal at Mumbai.

This also appears to be a very serious matter. The State Government shall, therefore, take necessary steps for filling in the vacant posts.

6. However, as indicated above, the retired Administrative Officers / Police Officers / Judicial Officers would be willing to accept the assignment only if they are given official accommodation and, therefore, let the State Government first decide the question of providing official accommodation to the members from amongst the retired persons.

7. When the pendency before the Maharashtra Sales Tax Tribunal is more than 4000 appeals, it is high time that the issue is taken up very seriously at all concerned levels.

Stand over to 25 November 2013.