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ARTICLES

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STATUTES

TAX NEWS

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Mrs. Huzaima Bukhari
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Have we got our narrative wrong?: Tax to GDP ratio

by

*Dr. Nadeemul Haque**

Decades of fund involvement has changed the economic narrative permanently in Pakistan. Before IMF involvement we used to talk of growth and investment; now everyone talks only of tax/GDP ratio as if that will solve all problems of Pakistan. There was a time when national policy not only built institutions for economic growth such as the Planning Commission and governance infrastructure, government also engaged in developing social infrastructure through agencies such as Bureau of National Reconstruction (Libraries) and National Film Development Corporation.

Now the national conversation seems to be dominated by the IMF requirement of ambitious fiscal targets based on increased tax collection and arbitrary expenditure cuts. Growth, employment and development are almost forgotten subjects. Even development donors such as the World Bank, Asian Development Bank, DFID and USAID have nothing for growth and development. Succumbing to IMF pressure, these agencies push only for revenue collection and severe fiscal correction. The little development work that they do is now social protection and some health and education.

We have been bitten by the bug of austerity without realising it. The whole world has now recognised the harmful effects of the policies of austerity while we continue to follow them. In this series, I will examine the harmful effects of austerity in Pakistan. We should all review these policies and change our narrative from austerity to growth.

Let us begin with an examination of the proposition that there can be no development without increasing our tax/GDP ratio.

It is said that out tax/GDP ratio is 9% of GDP which by international standards is very low. To justify their proposition, they point to selected countries with a higher tax-to-GDP ratio without establishing the basis for a comparison. Are they implying all countries should have the same tax/GDP ratio? But just examine the advanced countries: US 27%, UK 39%, Sweden 46%, and Germany 41%. Does this mean US should increase taxes to 46%? Yet the US wants to lower taxes. Let us face it there is no theory that tells us that all tax/GDP ratios should be the same. Those who use this argument on the media should be reminded of this simple truth.

If we want to compare our tax performance to anyone, perhaps we should go back in history and see how the advanced countries did when they were at our level of development. In 1901 the US and UK had a per-capita income of about $4500 and $3700 respectively. Their tax/GDP

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ratios were 7% and 10% respectively. Through most of the First World War, UK tax/GDP ratio remained in the low teens. Pakistan has a per capita income of around $1000; should we really be aiming for OECD tax rates?

Why then has our focus been on tax-GDP ratio for the last few decades and not on growth. What if our tax GDP ratio went up to about 15% would that mean higher growth and more employment for people. All over the world people associate a tax-cut as a policy instrument for stimulating growth. Only in Pakistan will a tax increase stimulate growth.

For some strange reason investors will invest more, workers will work harder, savers will save more to pay higher taxes. This strange theory prevails only in the minds of media commentators in Pakistan-commentators too lazy to go beyond simplistic donor propositions. This theory belies all received wisdom as well as empirical evidence: taxes take from production not increase it.

There is also another belief that if we get more revenues the government will spend the money wisely and judiciously giving us more public goods like education, health and infrastructure. Let us recall that in 2002 we got a rescheduling which did allow us to generate ample fiscal space to do all these good things. Where did we end up? With a humungous energy deficit, bankrupt PSEs, failing education systems, deteriorating law and order situation. Did we make the societal investments for public goods? No! Why then do we hold on to the assumption that more revenues will automatically increase welfare through better public good generation?

Another theory that donors love to put forward is that when people pay taxes they have (or will have) more control over governance. The fee-paying theory of revenue is not cognisant of literature. The Sheriff of Nottingham despite continuously increasing taxes gave no representation to people.

This brings us to the heart of the problem. Taxes follow a social contract and a certain need for creating public goods. That is why through history, sovereign's power to tax has been severely curbed through parliaments and popular vote. Kings and governments had to prove a need to tax through identifying clear public welfare programmes that the tax was going to finance. This was at the heart of enlightenment thinking. Now it seems we do not need to show what our taxes are used for. Without regard to public welfare we have to give the government more money to reach a target of 15% of GDP without questioning where the target came from.

People everywhere in Pakistan are asking what are my taxes used for? "What are my taxes used for? I get no public service, yet pay high taxes. Why is a frequent lament.

People are intuitively in line with enlightenment thinking. Surprisingly donor philosophy remains anti-enlightenment forcing all Pakistanis to pay more regardless of the quality and quantity of public service. Remember no one claps when the Sheriff of Nottingham raises his tax collection because everyone knows he is collecting for his own welfare.

International observers have benchmarked our poor governance and failed public service delivery mechanisms every which way. Should we hand such a system more revenues? Surprisingly that has become the mantra. What has the system done very well when they had more money in their hands. They engaged in poor quality projects that did not deliver a social return. They also engaged in self-dealing maximising their own perks, plots and welfare schemes. They created unnecessary and unprofitable public sector enterprises.

When I raise this argument with donors they point to the need to raise taxes to meet with the variety of donor initiatives that they want in the country, ranging from social protection to money-laundering to environment. So we should tax our people more to follow agendas determined in some dark corridor where we had no say.

Growth is about productivity, investment, jobs and opportunity. Educated kids without jobs and opportunity remain unemployed and potentially a destabilising force in society.

I do not understand why serious people think growth will happen with an increase in revenues? It is a spurious argument and we should not take it seriously.

Taxes and revenues should be increased in line with what enlightenment has taught us.

Our governance system needs reform to make it responsive to people's needs and to develop its capacity for public service delivery and for public policy. Reform will also remove the mechanisms of rent-seeking such as perks and plots and align public servants incentives with public service delivery. When people see a responsive and capable public sector, their willingness to pay will increase.

To me it seems that public service delivery reform must come before revenue collection. Why have we got it wrong?

Municipal self-governance

by
Huzaima Bukhari & Dr. Ikramul Haq

In Pakistan, the poor are subjected to heavy and cruel taxation to finance the luxuries of militro-judicial-civil complex and politicians—who enjoy free or concessional perquisites, benefits, including expensive plots at prime locations. The way they waste and plunder the taxpayers' money is no secret—shamelessness is the most appropriate word to explain their conduct. No serious effort since independence has been made to reform our indomitable militro-judicial-civil apparatus that has miserably failed to deliver, yet the corrupt politicians and businessmen feel honoured to act as their henchmen.

Due to sheer apathy of the ruling elites, the country is now at the brink of economic collapse. The monstrous fiscal deficit of nearly Rs. 2 trillion and fast depleting foreign reserves are forcing the government to borrow more and more money—externally and internally. In just ended fiscal year our tax-to-GDP, ratio further dipped to 8.5% from 9.2%. This is the time that intellectuals and professionals should play their role by suggesting remedial measures to bring the country out of present mess.

Our tragedy is that revenues worth trillions of rupees have been sacrificed by the governments—civil and military alike—since 1977 extending unprecedented exemptions and concessions to the privileged classes. Some of these are highlighted below:

- Military rulers abolished all the progressive taxes e.g. Estate Duty, Gift Tax, Capital Gain Tax etc.
- The historic decision of taxing "agricultural income", passed by Federal Parliament in the shape of Finance Act, 1977, was thwarted by the military regime of Ziaul Haq. Through this law, the Parliament amended the definition of "agricultural income" as obtaining in section 2(1) of then Income Tax Act, 1922 to tax big absentee landlords. This was a revolutionary step to impose tax on net agricultural income at federal level for the first time in the history of Pakistan, but foiled by a military dictator.
- During Zia's rule of 11 years and that of General Musharraf for nearly 9 years, absentee land owners (including mighty generals who received state lands as gallantry awards or otherwise!) did not pay a single penny as agricultural income tax or wealth tax.
- Taxation of "agricultural income", at present, is the sole prerogative of provincial governments under the 1973 Constitution of Pakistan. All the four provinces have enacted laws to this effect, but total collection in fiscal year 2012-2013 was less than Rs. 2 billion against actual potential of Rs. 200 billion (share of agriculture in GDP was about 22%).
- Meagre or non-taxation of capital gains—exemption is meant for the rich and the mighty and not the small investors who lose more money than what they make due to maneuverings of big players—has caused annual loss of billions of rupees to the national exchequer.
- Tax losses for exempting (in fact not taxing) speculative transactions in real estate are to the extent of billions of rupees per annum. The definition of 'business' given in the Income Tax Ordinance, 2001 covers "adventure in the nature of trade" and yet our tax machinery is sitting idle causing colossal loss to the national exchequer by not bringing adventures in the nature of

trade in real estate into tax ambit and giving undue tax exemption on gains arising on speculative transactions in shares and stocks. Our tax-to-GDP ratio can rise to 20% if we tax speculative dealings in real estate (this would also help in promoting construction industry as prices of land would come down) and bring black economy into tax net.

- Multi-national Companies (MNcs) through abusive transfer pricing mechanism deprive Pakistan every year of taxes of over Rs. 200 billion.
- Wealth Tax Act, 1963 was abolished through the Finance Act 2003 on specific demand of Shaukat Aziz before he took charge as Finance Minister of Pakistan. He was fully aware of the fact that by virtue of his status as resident in Pakistan, his global assets would attract provisions of the Wealth Tax Act culminating into substantial tax liability on annual basis. The repeal of this progressive law, especially suitable to Pakistan where enormous assets are created without disclosing income, was shown to be justified despite tremendous revenue losses, and the resultant misery inflicted on the majority of the people of Pakistan.
- In 2003 before its abolition, wealth tax was the only progressive tax left in Pakistan with tremendous potential for growth, if exemptions given to the rich absentee landlords were scrapped. This became obvious immediately after its repeal when billions of rupees (estimated at US$ 60 billion) started pouring in from all over the world remitted by all and sundry without any fear of being investigated, courtesy amnesty given under section 111(4) of the Income Tax Ordinance, 2001. Influx of enormous wealth was directed to the stock exchanges and real estate market where the sharks continued to engulf the small investors through unholy maneuverings; or was used to artificially enhance the prices of property. With no wealth tax to pay, both these avenues helped to increase individual wealth but dreadfully stripped the entire nation of its right to live in peace and economic prosperity.
- From 2003 to date, according to a conservative estimate, we have lost Rs. 300 to 500 billion worth of wealth tax that could have been imposed on unaccounted/untaxed wealth amassed by those already enjoying the privileges of a luxurious life.
- Section 111(4) of the Income Tax Ordinance, 2001 protects tax evaders as they are permitted to whiten untaxed income through an extremely simple and easily available procedure by going to a money exchanger and getting fictitious foreign remittance in their accounts after paying a nominal premium of 1 to 2.5 percent of the entire proceeds! The loss caused due to

this provision alone for the last five years is nearly Rs. 275 billion.

- In the last five years alone, revenue loss on account of taxing income from property at reduced rate is estimated at Rs. 180 billion.

The above are just a few areas showing how much tax loss we have been incurring perpetually since 1977. It confirms that Pakistan is ruled and controlled by predatory elites in whose hands power and wealth are concentrated. The ruling elites—comprising indomitable military-civil complex, unscrupulous politicians, mighty religious party leaders, absentee land owners and greedy businessmen—are engaged in loot and plunder, rent-seeking and snatching of public property. Total loss of revenue through Statutory Regulatory Orders (SROs) issued during the last few years alone is estimated at about Rs1200 billion — unprecedented concessions to the rich made the state poorer and the masses indebted enormously. The State does not need any borrowing at all, if taxes are levied according to the established norms of democratic dispensation.

The Supreme Court on April 17, 2013 suspended the March 14, 2013 notification issued by Interior Ministry granting former Interior Minister Rehman Malik and his predecessors lifetime perks and privileges. Hearing the suo moto notice case regarding the unlimited perks and privileges granted to two former prime ministers, all former interior ministers, Sindh chief minister and other senior officials by the outgoing government, the five-judge bench headed by Chief Justice sought a response from relevant authorities in this regard.

The FBR registered shortfall of nearly Rs. 450 billion for fiscal year 2012-13 and a few people know that while there was a serious crunch for resources, the government withdrew the biggest new revenue spinner — 1% withholding tax on manufacturing — resulting in a revenue loss of Rs. 18 billion. Drastic cut of federal excise duty on sugar to 0.5% aimed at benefiting the influential sugar industry owners caused a loss of Rs. 8 billion to the national exchequer. 50% cut of sales tax for steel melters, causing revenue loss of nearly Rs. 4 billion.

The dire need in today's Pakistan is to dismantle the culture of plots and perquisites to the ruling classes, boost the growth, improve the governance, crack down on the corrupt, stop wasteful, unproductive expenses, cut the size of cabinet and government machinery, make government-owned corporations profitable, accelerate industrialisation, increase productivity, improve agriculture sector, bring inflation down, reduce inequalities through a policy of redistribution of income and wealth and make the country a self-reliant economy.

It is high time that civil society, social media, intellectuals and professionals start a nationwide campaign against oppressive, anti-people policies and work relentlessly for establishment of an egalitarian state.

We can make Pakistan a prosperous and progressive society by following the model of Finland.

Finland is divided into municipalities, whose administration is based on the self-government of their residents. The decision-making power of local authorities is exercised by a council elected by the residents. Provisions on the general principles governing municipal administration and the municipalities' duties are set out in an Act. Additionally, the municipalities have the right to levy municipal tax. Municipalities in Finland have wide-ranging powers. In accordance with the Local Government Act, local authorities perform the functions that they are responsible for by virtue of their autonomy and those that they are required to do by law. Extensive functions that fall within the specific sphere of authority include education, health care and social welfare services. Furthermore, the municipalities are responsible for matters related to the residents' free-time, recreation, housing, and the management and maintenance of their living environment (i.e. roads, streets, water supply and sewerage), as well as land-use planning and functional municipal structures.

Tax revenues have a critical role in municipal finances. The power to levy and collect taxes is one of the cornerstones of municipal self-governance as it ensures that the municipalities can manage the functions that they have undertaken to execute or that they are responsible for by law. The most important is municipal tax, which amounts to almost 13 billion Euros. Corporate income tax amounts to a little over 1 billion Euros, and real estate tax also raises almost 1 billion Euros—Pakistan collects less than 20 billion Euros as taxes both at federal and provincial level.

If a country of 5.3 million people (Finland) can achieve this level of taxation at municipal level alone, we the nation of over 180 million can do much more, but if there is a will. One of the central constitutional principles regarding municipal self-governance in Finland is that, when allocating new functions to municipalities, the State has also to ensure that they have the necessary resources to carry them out. Finland has a well-functioning relationship between the State and the local authorities, as well as a state-subsidy system which ensures municipal resources and residents' equal access to services. We can learn from this great innovation of Finland. It can change the fate of the nation overnight. We have resources but system for self-governance as in vogue in Finland and elsewhere in the world is non-existent. Resultantly, power is not with people but in the hands of the privileged ones.

Economic equality, prosperity, peace and social tranquility can never be achieved unless we dismantle the elitist structures completely. We need fiscal and administrative decentralization where taxes are collected for education, health care and social welfare services through municipalities working on the principle of self-governance—and revenues are collected and utilized for the benefits of public.

Dismantle elitist structures

by
Huzaima Bukhari & Dr. Ikramul Haq

Judges of higher judiciary, military and civil hierarchy and parliamentarians feel that they are underpaid, thus, economically deprived! Frequently, the parliamentarians pass laws for their own benefits extending more emoluments and fringe benefits!! President keeps on enhancing benefits of judges. No doubt, economic deprivation prevails for the majority of low-paid employees, but the top-notches give them only peanuts—in retaliation they resort to corrupt practices in the name of "necessity". This is in a nutshell our *nizam-e-hakumat* (system of governance). It is a strange form of polity where the privilege classes want more and more share in taxpayers' money in the form of free plots and perquisites.

The total amount spent on military establishment—not for defence needs but for the luxuries of the generals and other high-ranking officers—is not less than Rs. 125 billion. The cost of running the offices of president, governors, prime minister, ministers, adviser (supported by huge staff) in a year is between Rs. 130-145 billion—60% of it is extending a host of fringe benefits. The entertainment budget alone of Prime Minister and President House is Rs. 170 million and Rs. 195 million respectively. One minister costs around Rs. 60 million per year; whereas we spend Rs 144 per Pakistani per year for health; and Rs 145 per Pakistani per year for education!

Ex-Prime Minister, Yousaf Raza Gillani, while speaking to grand gathering of senior bureaucrats in Lahore, asked the Pay and Pension Commission, notified on April 2009, to come up with concrete suggestions for "a reasonable pay and pension package for the government employees". The so-called party of the people, established by Zulfikar Ali Bhutto, in its 5-year rule did not bother to establish any commission to assess the unbearable incidence of taxes and cost of basic services to the ordinary citizens and how to give them relief. But Zardari *et al* were very concerned to give pay raises and benefits to the judges of Supreme Court and High Courts, military and civil bureaucrats. These institutions have failed to deliver but enjoy unfettered powers.

The high-ranking officials have dual nationalities and enormous hidden assets—kept mostly outside but also within the country in the names of others *(benami)*. No doubt all the public servants have legitimate right to get the reasonable pay and security of job—the State must fulfill its duty of good pay master. But in turn should be the public servants in real sense of the word and not the *Gora* sahibs. We beg money from all and sundry and then provide luxuries to elites from—it is shameful and deplorable. No growth has been achieved even after borrowing billion of dollars. People are dying of hunger—majority is living in miserable conditions—and our privileged public servants (sic), public office holders, generals and judges are not ready to give away their perks and benefits. In a democratic set-up they should get 'Consolidated Pay Package' and pay tax on it like others.

Way back in 1964, a book titled *'Your most Disobedient Servant'* was published by a civil servant in a transport service of the UK. It revealed the losses and irregularities in the use or misuse of official transports—it eventually paved the way for 'Consolidated Pay Package' that monetised pay, perks, privileges those serving in state organisations. It reduced the corruption a great deal. Civil society and social media in Pakistan must take up this issue forcefully.

According to a Press report, "in the locality sprawls over an area of 1,514 kanals of Mozang, Lahore, the largest house in the area, over 52 kanals, is the designated house for the Lahore High Court Chief Justice. The Commissioner's House is the second largest house covering 26 kanals. The Chief Secretary's House covers 12 kanals and the Chief Minister's House covers 5 kanals**.** These are painful facts. They beneficiaries of these huge residences, constructed from taxpayers' money or borrowed funds, claim to be public servants or the custodian of law. They give public sermons about rule of law and great democratic movement launched by the ordinary citizens that restored them, but feel no compulsion for living like them. Repeatedly they quote from Islamic "golden age" of administration. But seldom have they mentioned that in pre-monarchical Islamic period, the rulers used to take minimum possible amounts—only for their essential needs—from *Baatul Maal* (National Exchequer).

Millions are spent every year for the renovation, alteration and landscaping of Lahore's GORs to facilitate the civil, police and judiciary high-ups living there. The renovation of Punjab House in Islamabad, Karachi, Murree and Rawalpindi has been part of five successive budgets of *Khadim-i- Aala's*. This is the story of good governance in the Punjab—where the Chief Minister prefers to be called *Khadim-i- Aala* (Chief Servant)! The situation in other provinces and the federal government is no different—rather worse. Huge sums are spent (rather wasted) for providing privileges to the high-ranking government officials and politicians. The same situation prevails in the military establishment. The style of living of our generals is unmatched in the world. In the post-colonial period they became not only political masters but also the main beneficiaries of country's major resources.

While the government servants blame politicians for plundering and wasting the money, they allege that bureaucracy is the root cause of all the ills. They claim that a secretary of government costs at least Rs. 500,000 per month to national exchequer with lot of facilities and perquisites in kind. If rent-free accommodation given to him in Islamabad alone is evaluated on market basis, the benefit is not less worth Rs. 250,000 per month. In addition, he exercises unfettered powers and defy the orders of elected members of parliament and even sometime of ministers. These facts call for immediate right-sizing—closing down of all the unnecessary departments, divisions, sub-divisions and allied paraphernalia [see list in '**Capital Suggestions'**, *The News*, January 04, 2009]. The list is long and astonishing. At Constitution Avenue, Islamabad, one can count 30 useless government establishments that are doing nothing but have imposing buildings and huge staff. The same is true everywhere—in all parts of the country one finds governments office, overstaffed, wasting money and time and making the lives of the citizens difficult.

Living in sprawling bungalows with army of servants, the rulers, mighty bureaucrats, judges and generals are least pushed to bother how the common man is living (or dying)—even totally indifferent towards their own fellow low-paid employees. The civil-military structure in Pakistan is class-oriented and against the basic precepts of democracy. They make policies while sitting in the air-conditioned rooms for poverty alleviation and what not.

State of Pakistan since independence is either directly run or controlled by a strong civil-military complex. It has proved to be crueler that colonial masters—in terms of oppression, denying the people their fundamental rights and being highly inefficient and corrupt. Since independence political elite, playing in the hands of civil-military complex has also shown strong indignation towards pro-people decentralized governance. Our governance model—under civil or military rules alike—has proved to be even worse than many developing countries where decentralisation has brought benefits for the people at gross root level. Our rulers have failed to empower the masses by implementing the command of Constitution—Article 140A says: "**Each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments."**

The immediate action should be right-sizing of huge government machinery and monetising of all the fringe benefits and perquisites in kind given to the employees [see detailed recommendations by Dr. Ishrat Hussain, Shahid Kardar, Nadeem Ul Haque and many others]. Democratisation and decentralisation necessarily requires complete reform of our civil service and military establishment as well as accountability of public office holders. The State must withdraw from all its employees and public office holders all facilities like houses, cars, servants, telephones etc. All perquisites given in kind should be monetised. Let the government servants—especially the senior bureaucrats—live with the ordinary citizens of Pakistan and not in GORs or other posh (isolated) colonies. It will give them real insight how the policies should be made and what are the real problems of the ordinary folk.

The government must give 'Consolidated Pay Package' to its employees—there should be no free plots, free club memberships, fringe benefits and perquisites in kind. This will be the starting point of change in society—beginning of the democratization of governance. It is the Constitutional duty of the State to treat all the citizens equally and provide them the facilities of education, health and transportation. Since all the money is spent on the luxuries of the elites, the State has persistently been failed to fulfill its main responsibility. If we want to survive and progress, we will have to dismantle elitist structures.

Have we got our narrative wrong?: Tax to GDP ratio - II

by

*Dr. Nadeemul Haque**

We are continuously being harangued by donors and external agents with limited knowledge of our economy with epithets like "a nation of tax cheats", "poor revenue collection", 'why should our taxpayers pay when your people do not!" Strangely enough all this emanates from our own bureaucracy that for years has been saying that we have low tax to GDP ratio, one of the lowest in the world. Then they keep citing some databases that suggest millions of tax evaders.

Meanwhile, poor Pakistan suffers through a plethora of arbitrary taxes time after time to please this narrative of being tax cheats. Strangely enough our leaders especially our bureaucrats do not ever challenge this disparaging of our people; instead they feed it.

Let us examine how bad we really are! The Figure that we are always beaten with is that our tax revenue as a percentage of GDP is about 9. When we include non-tax revenue and petroleum levy our tax to GDP ratio goes up to about 13 percent. This is compared to India which collects about 17 percent of GDP and Sri Lanka collects about 15 percent. However as I argued in an earlier article, tax to GDP ratios vary across countries. Singapore for example collects 15 percent, Uganda, Paraguay and Indonesia about 12 percent. Why then do we face this severe criticism and why do our bureaucrats beat up on us?

Taxation is not mere revenue that government claims from our incomes and savings. What is never mentioned is that the government can also tax people through several methods other than taxation. Here are some examples:

1. Curtailing certain activities can act like places a tax burden on people. For example, for decades the government did not allow private sector media activity. Now that this activity has been allowed, we can easily estimate that the loss to society in those lost decades. Several high paying occupations such as journalists, actors, commentators, producers and

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directors, etc, have opened up now. It is easy to see that the ban imposed a huge tax burden on society.

2. Government-owned companies through the use of taxpayer funds as well as favourable treatment can crowd out the private activity in various sectors. Planning Commission Framework for Economic Growth has identified how government is crowding out the private sector through its direct involvement in several sectors. Glaring examples are the construction companies where the government companies are often favoured with non-competitive awards. Airline, airport, gas development distribution and agricultural procurement are other areas where the government either monopolises or heavily distorts competition.

3. Policy can also tax people and give protection or exemptions to chosen activities or industries. In such cases, people do pay a tax but that tax may not be collected by the government but by chosen individuals. Such policy exemptions or advantages to chosen people are called tax expenditures and are not small in Pakistan. For example, cars and various engineering goods are offered protection. Limiting consumer choice as well as making cars more expensive is a tax on the people of Pakistan. Similarly giving exemptions on inputs as well as providing advantages on tender arrangements to say producers of electrical equipment operates like a tax. Such expenditures have been estimated to be anywhere between 3 to 4 percent of GDP. Eliminating these policies and allowing a proper collection of tax without exemptions or attached policy goals would increase revenue by 3 to 4 percent of GDP.

4. Government perks and privileges also impose a heavy tax burden on the economy, which should be factored in. Take for example the large amount of tax-free compensation that government servants receive in the form of perks (houses, cars, servants, utility bills, plots). If these were monetized, the revenue collection would increase. The government also holds prime real estate for the purpose of providing perks such as housing and leisure activities to the officials. Not only is this real estate exempt from property tax, it is also not allowed to move to higher value uses. The opportunity cost of limiting commercial construction on these sites is huge in most cases.

5. The perks culture has also held real estate development hostage for decades as officials seek to reward themselves through plots. Private real estate development is held hostage to the plot culture as government-sponsored real estate developers DHA and coop societies dominate the market.

6. Market regulation when well thought-out fosters transactions and economic activity. However, when poorly conceived regulation has been shown by many economists to be equivalent to a tax on economic activity. For example, as argued in the Planning Commission Framework for Economic Growth, overly stringent building regulations impede development and create large excess demand in virtually all aspects of

urban space demand. The cost of this regulation is estimated to be large and continues to be imposed.

If we look at all these policies that invisibly tax economic activity, tax to GDP ratio would be way beyond 9 percent. Taking this perspective, a better approach would be to reduce this invisible burden on the economy and allow growth and employment to take off.

There is an urgent need to review the bureaucratic approach to macro policy where the expenditure and the structure of the economy seems to be given and the only adjusting variable seems to be chasing a large revenue target. When several structural problems are already holding economic activity back, the current approach seeks to further tax an already overtaxed or overburdened economy, labouring under the yoke of inefficient regulation, excessive and poor quality PSE intervention, an incentive structure of officials that precludes economic activity.(The first part of this two-part article was carried on July 15, 2013)

Exporters termed sales tax withholding agents in finance bill

The Federal Board of Revenue has shifted its responsibility of collecting tax to the exporters, as under the new finance bill, they have been declared withholding tax agent for all local purchases from unregistered suppliers.

The leather manufacturers and exporters have asked the FBR to utilize its own tax machinery to collect tax, instead of making exporters or manufacturers as its sales tax withholding agents. They raised objections over the government decision to make it mandatory upon exporters of leather products to charge sales tax on every purchase from unregistered suppliers.

“The rate of sales tax has already been increased and the new clause would make their produce costlier which may shrink their market and if this policy continues the result would be disastrous.”

Pakistan Tanners Association Central Chairman, Agha Saiddain, said that a tannery is usually makes purchases of up to Rs20 million in one month, implying that it has to pay tax around Rs3.4 monthly which is not refundable now, as all zero-rated sectors have been abolished.

“Besides, shifting of responsibility on exporters for collection of taxes and work as withholding agent for income tax, sales tax and FED means incurring of extra cost because all this needs dedicated staff and other resources,” PTA central chairman observed.

The leather industry representatives said that the Federal Board of Revenue (FBR) has proposed in the Finance Bill 2013 to include this clause to deceive the political leadership, working out new ways for corruption.

He said that leather industry would lose even a limited share of the global market and the cash flow of the members will be adversely affected whilst the government will not gain anything, due to decrease in export.

He said that the government has increased Sales Tax from 16% to 17% to increase its Revenue Target. But higher percentage of tax always gives birth to malpractices such as under-invoicing and other corrupt practices. As a result the government may lose both sales tax and customs duty due to under-invoicing on imported items. On the other hand the general public will face more inflation and prices of all commodities will increase.

Secondly the government has planned to face balance of payments through foreign investments by auctioning 3G license and some other measures, whereas, it would have been prudent to bring export friendly policies and built our foreign exchange reserve through increase in exports and by applying import substitute measure.

"We were expecting more creative budget but it was traditional and routine like past. Keeping in fiscal deficit of 8.8 percent of current year with huge public debt of Rs14284 billion the revenue target of Rs2598 billion is insufficient as such the real budget is hidden under apparent budget announced by the government."

Agha further added that the previous government violated Debt Limitation Act 2005 and allowed public debt to grow by 88% in the last five years. Pakistan can easily manage higher tax collection by expanding tax base and by bringing more people in tax net including agricultural sector.

Why a person with large landholding is exempted from tax payment is beyond normal common sense. At first stage government may impose agricultural tax on landlords with huge landholdings and gradually bring it down to the reasonable level. – *Courtesy The Nation*

FBR urged to direct Customs to clear cargo smoothly

The Union of Small and Medium Enterprises (Unisame) has urged the Federal Board of Revenue (FBR) to direct all collectorates of Customs to afford smooth clearance of cargo returned by the buyers for replacement due to defects found in the consignment by the buyer or the exporter himself calling for the goods back due to buyers refusal to pay for the value as per contract.

In either case, the re-exported cargo needs speedy, smooth and hassles clearance and exporters need not be looked down upon for the failure of the transaction but facilitated to overcome the situation.

President Unisame Zulfikar Thaver said that some times the goods shipped to buyers due to mistake or misunderstanding are not satisfactory and are rejected by the buyer and the buyer re-exports the goods back to the destination of the origin of the goods.

He said sometimes the exporter realises that the goods shipped by his unit are defective due to overlooking some aspect of quality checking and himself wishes to recall the goods back for necessary correction and repair and reship the goods after satisfaction of the quality control department.

Recently several containers of rice were rejected by the port authorities of an importing country due to unverified reasons although the buyers never raised any objections and were prepared to accept the cargo with full payment yet the port authorities are returning the containers. The exporters are anticipating difficulties in clearance. The union has urged the FBR to facilitate the exporters and not add to their losses by delaying clearance by raising unnecessary objections.

Thaver said as observed that many companies are very brand conscious and would not like their brand image to be damaged and prefer to replace the goods to satisfy the buyer fully and consider buyers' satisfaction very important.

Thaver said the Customs authorities need to be educated on the subject and directed not to make an issue on the return of the cargo and blame the exporter for negligence and penalise the shipper for the mistake and look down upon the exporter but facilitate the exporter to clear the re-exported cargo and replace it. – *Courtesy The Nation*

FBR seeks information from its staff about dual nationality

Federal Board of Revenue (FBR) has sought information from all its officers and officials along with their families regarding dual nationality by July 17.

FBR sources told APP here on Sunday that all members, chief collectors, commissioners, collectors, director generals, other ranks and officials working in all sections of board across the country have been asked to furnish information regarding nationality of foreign countries along with their spouses and children by July 17 next.

The officials have further been asked to mention the name of the country of dual nationality with date and year of obtaining as well as wether government NOC obtained or not.

The information is also sought on wives and children. – *Courtesy Business Recorder*

Export of molasses: commerce to move ECC for withdrawal of 15 percent Regulatory Duty

Commerce Ministry is likely to move Economic Co-ordination Committee (ECC) of the Cabinet for withdrawal of 15 percent Regulatory Duty on export of molasses, official sources told. The sources said that Federal Board of Revenue (FBR) had imposed 15 percent ad valorem regulatory duty on export of molasses in April 2009 despite the fact that the ECC had previously rejected the proposal twice. Stakeholders maintain that the government's 'unwise' decision has eroded their earnings and cash flows, the sources added.

The sources said that sugar mills on average produce 40,000 to 50,000 tons of molasses worth Rs 300 to Rs 400 million which was used for purchase of sugarcane. "As a result of export duty price of molasses in the local market are depressed, which impairs sugar mills' ability to make timely payment to the sugarcane growers," the pointed out. The projected production of molasses during the season 2012-13 is around 2.9 million metric tons.

According to the sources, Commerce Ministry has sought following information from the Ministry of Industries and Production: (i) expected production of molasses during 2012-13 season; (ii) capacity of existing distilleries to produce ethanol; (iii) distilleries requirement of molasses per annum; and (iv) international and domestic price of molasses during the last five years.

Production of molasses depends on sugarcane production, the area under cultivation and quality of cane crushed by the mills. Sugar industry, in its letter to the Commerce Secretary, maintained that the decision to impose 15 percent RD on export of molasses was maneuvered through political influence for the benefit of ethanol manufacturers so that they could purchase raw material at a lower price for so called value-addition in blatant violation of principle of market economy.

The decision has helped the ethanol manufacturers to control the purchase price of molasses, depriving sugar mill owners of their rightful sale price which is in contravention to the rules and regulations defined by the Competition Commission of Pakistan (CCP).

"We view the imposition of duty on export of molasses as unjust, coercive and contrary to the spirit of business ethics which encourage one sector at the cost of another. The sugar industry demands immediate withdrawal of export duty so that we are in a position to fulfil our financial obligations without getting hurt by the monopoly of ethanol manufacturers," the sources quoted sugar industry letter written to the Commerce Ministry.

The sugar industry has also requested the Commerce Ministry to include molasses in the Generalised System of Preferences (GSP) plus to facilitate its export to the European Union. Insiders claim that in 2009 Commerce Ministry had been asked by the then Prime Minister's Advisor on Finance, Shaukat Tarin to prepare a summary for the ECC for imposition of RD on export of molasses against its wishes. – *Courtesy Business Recorder*

Restructuring of I&I and Pral: FBR yet to implement FTO's recommendations

The Federal Board of Revenue (FBR) has not yet implemented crucial recommendations of the Federal Tax Ombudsman (FTO) for restructuring of Directorate of Investigation & Intelligence (I&I) and Pakistan Revenue Automation Limited (Pral) to prevent sales tax frauds and fraudulent refund claims.

Tax experts told on Sunday that FTO had recommended restructuring of the Pral transforming them into proactive agents of sales tax fraud prevention and detection and set up a task force to investigate all aspects of sales tax fraud. The FTO has given these instructions on a public interest complaint C.No 192/LHR/ST (48)/390/2012 filed by a tax lawyer Waheed Shahzad Butt.

Sources further told that FBR had neither preferred representation before the President under section 32 of the FTO Ordinance, 2000 nor any review has been filed before the FTO for reversal of findings/recommendations, however, despite lapse of reasonable time implementation on the recommendations issued by the FTO were pending.

FTO has asked the FBR to set up a task force to investigate all aspects of sales tax fraud and propose effective countermeasures. The board has also been asked to review Investigation and Intelligence staffing policy and ensure that only highly qualified professionals with demonstrated expertise in uncovering cases of online crime could be assigned key investigative roles, they said.

FTO has also instructed the FBR to proceed against tax employees found involved in perpetration of fraud, particularly those in higher ranks. The FBR has been asked to hire high quality prosecutors to handle complex tax fraud prosecutions.

The FBR has also been asked to enable prospective buyers to deal only with legitimate sellers.

The complainant has termed the procedure for blacklisting and listing inactive which must be telescoped so that doubtful firms do not remain in the field to dupe innocent buyers. The complainant has referred to the role of Pral as suspected. Moreover, reports published in the media also suggest that a significant number of accounts of existing registered sales tax persons may have been deliberately created as dummy entities for use in input tax scams.

The FTO had asked the FBR to implement the recommendation within three months and report implementation to the FTO office. During the investigation, the FTO found that sales tax fraudsters in Pakistan have become adept at targeting the online system of claiming input tax credit but after the lapse of three months the order is still unimplemented.

Lack of sufficient pre-registration checks is a critical reason why criminal elements get so many dummy entities registered with relative ease. As online registration is the first step for a participant in the automated sales tax system, it is only reasonable to expect that due attention is paid to build effective checks in the system. Pral does not appear to have learned lessons from the ease with which dummy entities have been set up in the past. Moreover, Investigation & Intelligence kept suspected registered persons active long after their fraud was discovered. It needs to take up the matter with Pral so that ways could be found to 'red flag' a suspect entity at the earliest possible stage in the fraud chain, thereby giving a timely warning to potential buyers.

The FTO had found that both PRAL and Investigation & Intelligence appeared to have failed in devising an effective automated online system for registered sales tax persons. Complicity of rogue tax employees with outside criminal elements has not been ruled out.

The complainant mentioned that a feature of the existing e-FBR Web Portal is the categorisation of registered sales tax persons as active and inactive. This categorisation is meant to act as a ready reckoner for the purchasers of goods to determine whether there was any risk attached to making purchases from the registered sales tax persons listed as suppliers of goods. In other words, a person involved in issuance of fake invoices would have to be listed as inactive. In practice, however, the system does not work in such a manner as to be of any practical assistance to intending purchasers of goods. This is because many registered persons, who are known to have indulged in tax fraud, manage to remain listed as active taxpayers long after their fraudulent practices have been discovered. Resultantly, numerous innocent purchasers of goods end up interacting with them. By the time they discover that their sales tax payments are not getting deposited into the government account, it is often too late.

The complainant further pointed out that it is not a simple case of hacking into a system. The deliberate creation of dummy entities, for instance, illustrates that all this cannot happen without insiders' involvement.

According to the FTO decision, when confronted, both Pral and Investigation & Intelligence responded to the points raised by the complainant. Pral emphasised the important role it had played in setting up a complex, electronic system to facilitate fraud-free transactions involving payment of sales tax. It claimed to have created the right tools to detect tax fraud within the e-FBR system. Downplaying the complainant's suspicions of Pral's involvement in aiding and abetting criminal elements in sales tax fraud, it was pointed out that Pral was only a technology provider and a responder to departmental requirements by design, implementation and maintaining e-systems according to given specifications. It had no direct role in the day-to-day working of field formations. Investigation & Intelligence also did not provide any insight on how the fraud could have been perpetrated on such a scale without access to passwords, pin codes and user IDs that are created and maintained by Pral, FTO order added. – *Courtesy Business Recorder*

Property tax defaulters' names to be advertised

Property tax defaulters' names will be published in national dailies soon and a punitive action would also be taken against defaulters according to the law, told a senior official of the Excise and Taxation Department to APP on Sunday. He said that the country was passing through a critical economic situation and the department had planned utmost efforts to achieve tax recovery targets.

To a question, he said the property tax payment system had been simplified and there was no complication in it. Comprehensive measures are being taken for improving the efficiency of the department and modern technology is used for the purpose, he added.

"The department is working on an effective strategy for plugging the leakage of taxes and achieving recovery targets for the current year", he said.

To a question on corruption in property tax collection, he said efforts were being made to minimise corruption through strict measures. – *Courtesy Business Recorder*

Dar to visit Lahore Chamber to address businessmen's grievances

Federal Finance Minister Ishaq Dar has given assurances to the business community that he will soon visit the Lahore Chamber of Commerce and Industry (LCCI) to hear and address their grievances.

He gave the assurance while talking to a business delegation, led by LCCI President Farooq Iftikhar and comprising former presidents and senior members of the chamber.

The delegation also held a meeting with Federal Board of Revenue (FBR) Chairman Tariq Bajwa, highlighted the challenges faced by the business community and called for urgent measures for addressing the problems.

The finance minister said the government needed to increase revenue collection by 25% to meet this year's target and he and his team were prepared to sit with the business community to discuss issues keeping in view the convenience of trade and industry.

Welcoming the relief given to some sectors of the economy, the LCCI president said continuous zero-rating for bicycles, cut in duty on old clothes, a separate mechanism for capacity tax on the beverage industry and the order on printing of retail prices by the manufacturers of items specified in the Third Schedule would go a long way in the revival of economic activities in the country.

Other issues that came under discussion included sales tax record, powers of commissioners inland revenue, access to bank accounts, posting of FBR staff at business premises, rate of withholding tax on local sales and services provided to five export-oriented sectors, tax under Section 236-D and 236-H, addition of items to the Third Schedule of Sales Tax Act, setting up of appellate tribunals, inadmissibility of input tax and delay in refunds.

They also assessed the implications of smuggling, mis-declaring the value of goods at ports, selection of cases for audit and unnecessary import of luxury items.

LCCI President Farooq Iftikhar told the finance minister that revenue collection would receive a considerable boost if smuggling and unnecessary import of luxury items were checked. The private sector was ready to play its role in this connection, he said.

Iftikhar pointed out that markets were flooded with smuggled items, causing a loss of billions of rupees to the national exchequer, which could be averted by using latest techniques like tracking the movement of containers at the entry and exit points on the highways.

He proposed that customs duty on smuggling-prone items should be reduced to discourage the practice and support legal imports.

According to businessmen, massive smuggling of plastic raw material from Iran is going unchecked as a result of which imports are shrinking and taxpaying traders are finding it difficult to import the raw material because smuggled goods are available at a lower price.

The duty on plastics (covered by Chapter 39) was proposed to be reduced to 5%. Apart from this, withholding tax may also be slashed.

Iftikhar said imports against TT were increasing because of massive misuse of the facility and suggested that these imports should be discouraged and an appropriate legal framework should be introduced. Furthermore, import of unnecessary and luxury items such as vehicles should be discouraged instead of introducing amnesty schemes for legalising smuggled goods.

Citing the example of imports from China, he said it clearly showed that around $2 billion worth of goods were declared at a value less than the price in the country of origin, dealing a blow of Rs70 billion in terms of lost customs duty and taxes if calculated at the rate of 35%.

Businessmen also strongly oppose amendments relating to selection for audit, saying it will increase corruption, discrimination and misuse of discretionary powers. – *Courtesy The Express Tribune*

Govt wants to increase revenue collection by 25%: Dar

Government requires an increase in revenue collection to the tune of 25 percent and he and his team is prepared to sit with the business community to finalise the matter keeping in view the convenience of trade and industry, said Federal Finance Minister Ishaq Dar.

Talking members of Lahore Chamber of Commerce an Industry (LCCI), he said the government wanted to revive the economic activities therefore they have provided relief to the businesses and industries by issuing SROs 648, 649 and Sales Tax General Order 28.

He said economic revival through policymaking, maintenance of law and order and energy production were among their top priorities.

Dar reportedly made a commitment with the delegation he would visit Lahore Chamber soon to address all the irritants to the satisfaction of the business community.

President LCCI Farooq Iftikhar informed the Federal Finance Minister revenue collection would get considerable boost if smuggling and unnecessary import of luxury items were controlled.

He said the private sector was ready to play its role in this regard. The LCCI president said markets were flooded with smuggled items covering all sectors and products causing loss of billion of rupees to the national exchequer.

He said business community was of the view by using latest techniques like tracking of containers at highways entry and exit points the loss could be averted.

He proposed Customs Duty on smuggling prone items should be reduced to support legal import.

However it is pointed out at this stage massive smuggling of plastic raw-material is going on from Iran as a result of which imports are shrinking and the honest taxpayers are finding it difficult to import/purchase tax paid raw materials because smuggled raw material is available on a lower price.

The rate of duty on plastics (Chapter 39) is proposed to be reduced to 5 percent. Rate of withholding income tax may also be reduced.

The minister was told imports against TT were increasing due to massive misuse of the facility. It was proposed imports against TT should be discouraged and appropriate legal framework for this purpose should be introduced. Further import of unnecessary times/luxury items e.g vehicles should be discouraged instead of allowing amnesty schemes for such smuggled items.

Farooq Iftikhar said misdeclaration of value at the ports is causing huge loss to the national exchequer. The example of imports from China clearly shows that almost $2 billion worth of goods are declared at less value than the country of origin price resulting in loss of Rs 70 billion in shape of custom duty and taxes if calculated at the rate of 35 percent.

The business delegation of LCCI also had a meeting with Chairman Federal Board of Revenue (FBR) Tariq Bajwa and presented reservations of the business community and called for urgent addressing of the problems.

The LCCI president said continuity in zero-rating for bicycles, cut in duty on old cloths and a separate mechanism on Capacity Tax on beverage industry and STGO on printing of retail prices by manufacturers of items specified in Third Schedule would go a long way in the revival of the economic activities in the country.

The other issues came under discussion included Sales Tax Record, Powers to Commissioners Inland Revenue, Access to Bank Accounts, Posting of FBR staff at Business premises, Rate of Withholding Tax on local Sales and Services provided to five export oriented sectors, Tax under section 236-D and 236-H, addition of items in third schedule of Sales Tax Act, appointment of Appellate Tribunals and inadmissibility of Input Tax and Blocking of Refunds.

Both the sides discussed implications of smuggling, misdeclaration of value at ports, selection of cases for audit, Import against TT and unnecessary import of luxury items. – *Courtesy Daily Times*

Wrong input tax adjustment: retrospective recovery from edible oil importers ordered

The Federal Board of Revenue has ordered retrospective recovery of wrongly adjusted input tax worth billions from importers of edible oil engaged in manufacture of vegetable ghee and cooking oil. The FBR has issued instructions to Chief Commissioners of all Large Taxpayer Units (LTUs) and Regional Tax Offices (RTOs) here on Monday to initiate recovery proceedings against the manufacturers of vegetable ghee and cooking oil retrospectively.

According to the FBR's instructions, the Board has also cancelled an earlier clarification of FBR regarding adjustment of the FED paid in sales tax mode on the import of items mentioned in the Second Schedule of the Federal Excise Act 2005. The FBR's clarification has been rescinded on the basis of legal justification given by Chief Commissioner RTO Abbottabad, withdrawing a facility available to edible oil sector. Resultantly, input tax adjustment of 0.35 percent would be admissible as compared to existing practice of one percent on actual quantity of supply of sop stocks by the edible oil industry.

The FBR's letter dated July 15, 2013 said that with reference to RTO, Abbottabad's observations, after careful consideration of the issue, the Board has withdraw its letter dated March 5, 2012 ab-initio. All RTOs/LTUs are directed to scrutinise/check the record of all registered persons in their respective jurisdictions and initiate recovery, if any, in light of withdrawal of the said letter, FBR added.

Sources told that the edible oil amounting to approximately Rs 2 million metric tons per annum is being imported to Pakistan, subject to Federal Excise Duty (FED) in sales tax mode at the rate of 17 percent in addition to FED at the rate of Rs 1 per kg in value addition mode vide SRO.24(I)/2006.

During the process of refining and bleaching, wastage to the extent of 1 percent occur. Out of one percent maximum up to 32-35 percent wastage is recoverable in the shape of palm fatty acid, being a soap stock consumed in manufacturing of toilet soap and laundering soaps/detergents. Since the input tax paid at import stage is adjustable and not refundable therefore the input tax is adjusted in soap stock at the time of supply to soap manufactures by manufactures of vegetable ghee and cooking oil on actual quantity of soap stocks supplied excluding invisible and irrecoverable losses.

Chief Commissioner RTO Abbottabad has informed the FBR that the FBR vide SRO 24(I)/2006 imposed fixed Excise Duty at the rate of rupee 1 per Kg at import stage in lieu of federal excise duty payable at production or manufacturing stage on Vegetable ghee and cooling oil, However, supply of Palm Fatty Acid/waste recovered from the manufacturing process and soap made from the said items was subject to levy of sales tax at the standard rate. The ghee manufacturers registered in this RTO, charged output sales tax on the supply of Palm Fatty Acid/waste and soap, but deposited only 10 percent of the tax so charged and claimed the remaining 90 percent as input tax adjustment latter on during processing of Refund claims the said amount is being recovered from the admissible refund as no input tax adjustment is permissible against output tax charged on Palm Fatty Acid/Waste and soap, under Section 7 of the sales tax act, 1990 read with Apportionment of input tax rules issued vide chapter IV of the sales tax Rules 2006.

Chief Commissioner said that the Pakistan Vanaspati Ghee Manufacturer's Association however, request the Board, to allow adjustment of FED paid at import stage against the out put sales tax charged on Palm Fatty Acid/waste and soap on proportionate basis. In response to the letter of PVMA, the FBR vide letter on the one hand asserted that the duty/tax on Palm/Fatty Acid recovered from the manufacturing process of ghee/oil has already been paid at the import stage, therefore no further sales tax is payable on Palm Patty Acid, but on the other hand it has also been mentioned that no refund of any input/duty paid at import stage or refund of any amount of input tax carried forward in the sales of Palm Fatty Acid shall be allowed.

As the Board has clarified that no further tax is payable on Palm Fatty Acid, accordingly M/s Yaqoot Oil Processing and Extracting Mills (Pvt) Ltd has claimed refund of Rs 37.653 Million which has already been recovered by this office from the admissible refund being charged/collected on Palm Fatty Acid but not deposited with their monthly sales tax returns, Chief Commissioner RTO Abbottabad said.

Keeping in view the above facts RTO Abbottabad is of the view that the Fixed Excise Duty of Rs 1 / Kg at import stage imposed vide SRO.24(l)/ 2006 dated 07-01-2006 is the final liability of FED payable at production or manufacturing stage only for Vegetable ghee and cooking oil as clarified vide Federal Excise General Order (FEGO) No 01/2006. The Palm Fatty Acid is a district product (classified under PCT heading 3823.1910) which is subject to levy of Sales Tax, and do not fall in the ambit of SRO.24(I)/2006 dated 07.01.2006. The issue has also been clarified by the Board vide letter C.No 1(3) CEB/04 dated 11.03.2006.

The Board contention vide letter that no further sales tax is payab1e on Palm Patty Acid giants blanket exemption to Palm Fatty Acid which is otherwise not exempted under Sixth Schedule of the Sales Tax Act, 1990 as held by Supreme Court of Pakistan in Civil Appeals 2687 to 2696 of 2001.

Palm Fatty Acid generated in the production process is a waste and input tax adjustment against sales tax charged on Palm Fatty Acid/waste is not admissible under Section 7 of the Act ibid read with Apportionment of Input Tax Rules issued vide Chapter IV of the Sales Tax Rules 2006, RTO said. The blanket exemption granted to the Palm Fatty Acid/waste may have tremendous repercussion on the revenue, as no exemption is available to waste/ scrap generated in manufacturing process.

The Board is requested for guidance and clarification in the light of the mentioned contradictions, RTO Abbottabad added. Following detection of the case by Chief Commissioner RTO Abbottabad, the FBR has withdrawn the following earlier clarification dated March 5 2012:

The issue of adjustment of 16 percent FED and Rs 1/Kg FED, both in Sales Tax mode paid on the import of items mentioned in the Second Schedule to the Federal Excise Act, 2005, has been examined. The FBR has clarified that the duty/tax on Palm Fatty Acid recovered from the manufacturing process of ghee/oil has already been paid at the import stage, therefore, no further sale tax is payable on such Palm Fatty Acid. In case of supply of such Palm Fatty Acid to registered persons, the supplier shall issue invoice on the same pattern as had already been prescribed vide FBR's letter C.No l(3)CEB/04 dated 20-04-2006. However, no refund of any duly paid at import stage would be admissible to any ghee/oil manufacturing unit except in case of export.

The FBR has further clarified that in case of use of such Palm Fatty Acid in manufacturing of soap, the manufacturers of soap shall only be allowed to adjust proportionate input tax worked out on the basis of the invoice issued in light of formula of tax fraction ie 16/16 x value of supply.

In cases, where manufacturers of ghee/oil have already claimed proportionate input tax adjustment of FED paid at import stage against the output sales tax of Palm Fatty Acid/soap, the RTOs/LTUs may scrutinise the record of the manufacturers to ascertain the actual adjustment claimed viz the position stated. In case, the proportionate input tax adjustment was found to be in accordance with the said position above no further action for recovery of such adjusted amount or deduction of the same from refund be initiated against the registered person. It is also directed that no refund of any input5 tax/duty paid at import stage or refund of any amount of input tax carried forward in the sale of Palm Fatty Acid shall be allowed, the FBR's rescinded clarification added. – *Courtesy Business Recorder*

No mechanism to net non-filers: only compliant taxpayers to pay 0.5 percent ISL!

Only regular income tax return filers and compliant taxpayers would be forced to pay 0.5 percent Income Support Levy as Federal Board of Revenue has no mechanism to collect the levy from non-filers of returns and wealth statements. Experts told here on Monday that the FBR cannot collect the levy from owners of immovable assets not filing returns and wealth statements.

The newly introduced 0.5 percent Income Support Levy on net movable assets would result in additional taxation on already taxed persons. This is due to the fact that it would be collected through wealth statements required to be filed along with income tax returns. It means only compliant taxpayer shall face this additional burden whereas no collection would be made from the un-registered persons. The enforcement drive would be launched by the FBR to issue notices to taxpayers already on tax roll/NTN register.

Source further said that the income support levy would be collected through filing of income tax return along with the wealth statement .Obviously it would be filed by the existing taxpayers. The FBR would issue a new Wealth Statement for collection of 0.5 percent Income Support Levy on net movable assets from all individual taxpayers. Through an amendment to the Income Tax Ordinance, the FBR has abolished the threshold or limit for filing of wealth statement. Now, every return filer has to file wealth statement irrespective of his annual income limit.

Under the Income Support Levy Act, 2013, the rate of levy payable under the Act will be 0.5 percent of the net moveable wealth exceeding one million rupees. A person who is liable to pay the Levy under this Act shall pay the Levy along with the wealth statement. The officer of Inland Revenue shall, by an order in writing, determine the Levy payable, and shall serve upon the person a notice of demand specifying the sum payable and the time within which it shall be paid and thereupon such sum shall be paid to such account and in such manner as may be prescribed, within the time specified in the notice.

It is quite strange that after having complete data of bank account, foreign travelling, ownership of vehicle, houses of more than 3.8 million people why FBR remained silent to collect taxes from evaders/dodgers. These tax evaders must be targeted who have been identified by using database of National Database and Registration Authority (Nadra), experts added. – *Courtesy Business Recorder*

Used clothes: FBR reduces ST to five percent

The reduction in sales tax from 17 percent to 5 percent on old and used clothes was due to government's consideration for the common man, who uses these clothes.

The official spokesperson of FBR said here on Monday, that sales tax on old and used clothes has been reduced by the Federal Minister for Finance Ishaq Dar, from 17 percent as stated on the floor of the National Assembly in his budget speech on 5th June 2013, to 5 percent in his winding up speech and as incorporated in the Finance Act 2013. – *Courtesy Business Recorder*

Major reshuffles in FBR; 6 senior officers transferred

The Federal Board of Revenue (FBR) on Tuesday transferred its 6 offices of BS-20 and BS-21 with immediate effect.

According to the notification issued here, 3 officers of BS-21 and 3 officers of BS-20 of FBR were transferred on Tuesday. The notification stated that Khawaja Tanveer Ahmad (Inland Revenue Service, BS-21) has been appointed as member (Internal Audit) Federal Board of Revenue Headquarter. Sikandar Aslam (Inland Revenue Service, BS-21) has been appointed as member FBR. Shaista Abbas (Inland Revenue Service BS-21) has been appointed as Director General (Special Initiatives) Karachi.

Meanwhile, Ahmed Saeed Siddiqui (Inland Revenue Service BS-20) has been appointed as Chief Commissioner Inland Revenue (OPS) Regional Tax Office III Karachi. Lubna Farrukh Mirza (Inland Revenue Service BS-20) has been appointed as OPS Regional Tax Office II Karachi. She would assume the charge after completion of National Management Course. Amir Ali Khan Talpur (Inland Revenue Service BS-20) has been appointed as OPS Regional Tax Office Sukkar.

It is worth mentioning here that major reshuffle has been done since Chairman FBR Tariq Bajwa has assumed the additional charge of Secretary Revenue Division. The FBR on July 9 also transferred its 29 offices of BS 20 and BS 21 with immediate effect. Sources said that FBR chief is constituting competent team in order to reach the gigantic annual revenue collection target of Rs 2475 billion during the ongoing financial year 2013-2014. – *Courtesy The Nation*

Vulnerabilities of FBR e-system exposed by FTO's Office

Federal Tax Ombudsman (FTO) Office has observed that the Federal Board of Revenue appears to have badly failed to devise a secure automated online system to safeguard confidential and classified data of taxpayers. Sources told here on Tuesday that in a recent order during the tenure of FTO Dr Muhammad Shoaib Suddle FBR had been directed to commission a thorough investigation by a credible third party in relation to the vulnerabilities of the FBR e-system.

Sources further said that the serious matter of insecure data has been taken up by FTO Dr Muhammad Shoaib Suddle during his tenure on a complaint filed by a Lahore-based tax lawyer Waheed Shahzad Butt of Tax Resolution Services Company. A regular complaint No 20/ISD/FBR(1)/507/2013 was registered for properly investigation of the secrecy of Pakistanis/Non-resident taxpayers data.

The order passed by FTO stated that in the complaint filed, the FTO office presented the proof as to how an EI can play with the secret data of taxpayers. In order to highlight the easy access to the taxpayers' data, Butt filed the Withholding Tax statements of a government department successfully and filed these documents to the FTO office in his complaint as proof. He filed the WHT statements of ECP, Federal Public Service Commission, Cabinet Division, and FTO office. The E-acknowledgement receipts of the government departments were also submitted with the complaint. The complainant, an advocate by profession, has alleged maladministration on the part of the FBR involving negligence and incompetence in ensuring security/safety of taxpayers' confidential and classified data. The main contention of the Complainant is that any E-Intermediary (EI) can show a taxpayer as his client in the FBR's e-system even without knowing his email ID or mobile number, thereby breaking into the confidential data held by the FBR.

In order to ascertain the genuineness of the complaint, the Complainant and the relevant officials of FBR, including CEO PRAL were called for a hearing. The CEO Pral, Imtiaz Ahmed, Manager Pral, Rafi along with a representative of FBR, Nasir Khan, attended the proceedings.

The complainant, who is a registered EI, practically demonstrated how easy it was to have unauthorised access to confidential data of any taxpayer. During the hearing, he took mobile number of FBR representative, Nasir Khan, and requested the FBR's e-system to add Nasir Khan as his 'client'. Shockingly the e-system immediately sent an activation code on the personal mobile number of Nasir Khan without cross verifying whether or not he was actually the EI of Nasir Khan. Done during the hearing, it established severe flaws in the FBR's e-system.

The complainant next demonstrated that it was not necessary to use the mobile number of the taxpayer to break into the system. Any mobile number could be used to show a taxpayer as a client of the EI. Also, the data of a taxpayer could be manipulated without his permission, consent and knowledge.

The complainant then demonstrated how the withholding tax statement of a government department could be successfully filed. He filed the withholding statements of Election Commission of Pakistan, Federal Public Service Commission, Cabinet Division, and FTO Secretariat. With permission, he successfully manipulated the FBR's e-system to show himself as an employee of FTO Secretariat who was paid a salary of Rs 25 million, with income tax deducted on his salary at Rs 5 million for tax year 2011. If that was not enough indictment of the FBR's e-system, he filed a return of income of FTO Office for tax year 2010 with the Electronic Document Number (EDN) 31531105 showing an income of Rs 100 billion, with Rs 25 billion as tax paid by the FTO Secretariat and Rs 99 (only) as refund due. The complainant remarked that if FBR data was any guide for the purposes of verification of income declared in the tax returns and tax paid, then FTO Secretariat was the 'highest tax-paying institution' that had deposited Rs 25 billion income tax in tax year 2010.

The complainant further added that for adding a taxpayer as a client of an EI, it was necessary to attach an authority letter from him, which was not being followed by PRAL. A taxpayer having

NTN certificate and e-enrolment is required to confirm through his mobile number his e-mail address which is already available with Pral. Only after checking his email PRAL is supposed to send activation code only to the taxpayer's number.

Though the extreme vulnerability of FBR's e-system was demonstrated publically, the CEO PRAL contended that it was a legal requirement under Rule 73(6) of the Income Tax Rules 2002 that a taxpayer must authorise the EI through authority letter and only then he could add him as his client. However, the authority letter could not be cross checked by the presently devised e-system, but could be called by the concerned tax officer, if he so desired. He also denied that the data of any taxpayer could be manipulated by an unauthorised EI.

The departmental representative (DR) could not offer any plausible, justifiable defence against the evidence provided by the complainant. They could not belie the withholding statements and tax returns of FTO Secretariat, among others. The FBR appears to have badly failed to devise a secure automated online system to safeguard confidential and classified data of taxpayers. Gross negligence and incompetence together with possibility of collusion of PRAL employees with criminal elements could not be ruled out. All this is reflective of maladministration as defined in Section 2(3) of the FTO Ordinance 2000, FTO Order said.

The FTO order further suggested FBR to take immediate remedial steps to ensure fool proof security of taxpayers' data; create a system where addition of a client of EI is predicated on verification by the Commissioner concerned. The system must not issue the activation code without the electronic approval by the Commissioner; ensure that annual withholding statements and withholding certificates etc generated through the FBR's web portal do not end up in fraudulent criminal hands; commission a thorough investigation by a credible third party in relation to the vulnerabilities of the FBR e-system, the FTO order added. – *Courtesy Business Recorder*

Collection on Demand: FBR witnesses 35.2 percent decline in nine months

The Federal Board of Revenue has witnessed a major decrease of 35.2 percent in Collection on Demand (CoD) during July-March 2012-13 as compared to same period last fiscal, reflecting low income tax collection out of demands against taxpayers. The FBR quarterly report issued here on Tuesday disclosed that the collection on demands stood at Rs 47.56 billion during July-March 2012-13 against Rs 73.41 billion in July-March 2011-12, showing a massive decrease of 35.2 percent.

The collection under CoD, an important component of income tax, has declined drastically. During July-March 2012-13 total CoD collection dropped by 35.2 percent. More importantly the negative growth in current income tax demand was 39.3 percent, which apparently shows lack of departmental efforts for conducting timely and effective audits.

In absolute terms Rs 26.5 billion lesser amount was collected in 2012-13 as compared to first nine months of 2011-12. The second component, ie, the arrear demand has been comparatively better and around 11 percent growth was realised. A substantial fall in CoD collection raises the question about the departmental efficiency and capacity. The second major component of income tax is the voluntary compliance; comprising collection with returns and advance payments. The collection from VP recorded a growth of 12.5 percent during July-March 2012-13 and around Rs 20 billion additional revenue collection was realised as compared to last year. Advance taxes grew by 12.9 percent but with returns of only 7.3 percent. It shows more reliance on advance payments and lesser focus on tax paid with returns.

WHT continues to be the leading source of direct tax receipts. The WHT collection during July-March, 2012-13 has been Rs 299.8 billion against Rs 286.4 billion during PFY, indicating a growth of just 4.7 percent. The major contributors of withholding taxes are contracts, imports, salary, telephone, export, bank interest, electricity, dividends and cash withdrawal.

The highest growth in WHT collection has been from electricity bills (23.3 percent) followed by bank interest (13.8 percent), imports (12.5 percent) and contracts (8.5 percent). The decline noted in WHT on salary is due to the reason that basic exemption limit was enhanced from Rs 350,000 to Rs 400,000 and the rate for each slab was reduced in the Budget FY: 2012-13.

Similarly, the shifting of major services, including telecom, from federal to provinces also affected the collection adversely. The growth in the collection from dividends was very low due to less declaration of dividends by the companies for recession in the economy, the report added. – *Courtesy Business Recorder*

Business class taxpayers: FBR may make balance sheets mandatory

The Federal Board of Revenue (FBR) may make it mandatory for business class taxpayers to file balance sheets or statement of affairs along with income tax returns forms for the Tax Year 2013 onward. Sources told here on Tuesday that necessary changes in the income tax return form would require amendments to Income Tax Rules, 2002, through issuance of the statutory regulatory order (SRO).

"The FBR is in the process of drafting a new income tax return form and different viable suggestions are being considered to make it more comprehensive. The Board is legally empowered to make it mandatory for different categories of business class taxpayers to file balance sheet with income tax returns and statements electronically. In case of small business entities, account statements (statement of affairs) would be enough to file along with income tax returns. The category of non-corporate sector which could be required to submit statement of affairs included manufacturers, wholesalers, distributions, retailers and professionals etc," they added.

The sources further said that budget 2013 lacks a major policy initiative of mandatory submission of balance sheets with every business return of income. The income tax return with balance sheet for business class taxpayers should be mandatory under the Income Tax Ordinance 2001 to ascertain actual income and expenditure of all businesses. In case of finalisation of the proposal, the same would be made mandatory for all categories of taxpayers filing business return of income through amendment to the income tax return form.

When contacted a tax expert informed that filing of audited accounts and balance sheet is already a mandatory condition for corporate sector taxpayer, while besides filing of accounts and balance sheet there is inbuilt segment in the income tax return form, devised for corporate sector taxpayers, where complete detail of assets and liabilities have been filed. These includes details pertaining to capital employed in the business, bank loans, creditors, cash in hand, accounts payables, accounts receivables, plant machinery equipment, building, land, vehicles, computers, furniture fixtures etc.

The new income tax return forms can require business class taxpayers to provide their balance sheets covering each and every detail pertaining to assets and liabilities. The change may also be called as introduction of documentation of the economy. This pivotal information summed up in balance sheet if submitted with income tax return will ultimately keep a check on the business class taxpayers with huge assets. It will also keep a check on income earned and assets acquired by a taxpayer which was previously not justified due to lack of information.

At present provisions of section 114 of the Income Tax Ordinance, 2001 are quite clear to enforce annual income tax return along with certain annexures including balance sheet, audited accounts, personal expenditures, wealth statements, details of assets and liability as may be prescribed by the board.

Furthermore, the provisions of sub-section 6 of section 114 of the Income Tax Ordinance, 2001 make it mandatory for all types of taxpayers including corporate and non-corporate business class etc to file audited accounts including balance sheet, profit/loss accounts and statement of affairs wherever applicable, while submitting revised income tax return or statement. However, such mandatory filing of balance sheets is applicable in filing of revised income tax returns. This is not applicable while filing of normal income tax return forms.

As per language of the section 114(6) of the Ordinance, 2001, any person who, having furnished a return, discovers any omission or wrong statement therein, may file revised return subject to the following conditions, it is accompanied by the revised accounts or revised audited accounts, as the case may be.

In the light of provision of section 114(1) of the Ordinance following persons are required to furnish a return of income for a tax year, namely:- every company; every person (other than a company) whose taxable income for the year exceeds the maximum amount that is not chargeable to tax under this Ordinance for the year; or any non-profit organisation as defined in clause (36) of section 2; any welfare institution approved under clause (58) of Part I of the Second Schedule, National Tax Number holders and other categories of taxpayers specified in section 114 of the Income Tax Ordinance 2001.

Keeping in view provisions of section 114(2) of the Ordinance a return of income for a tax year shall be filed in the following manner:- It shall be in the prescribed form and shall be accompanied by such annexures, statements or documents as may be prescribed. It shall fully state all the relevant particulars or information as specified in the form of return, including a declaration of the records kept by the taxpayer. The income tax return shall be signed by the person, being an individual, or the person's representative where section 172 applies. It shall be accompanied with evidence of payment of due tax as per return of income and shall be accompanied with a wealth statement as required under section 116.

The filing of balance sheets along with the income tax returns would facilitate the FBR to know exact business transactions and profits/earnings of the business units with the help of balance sheets. The analysis of returns and balance sheets would also help the tax department to check the financial statement covering assets, liabilities and ownership equity or capital. This data can easily be compared with the annual income tax returns filed by the business units, experts added. – *Courtesy Business Recorder*

FBR spending 80-90 paisa on collection of every 100 rupees

The cost of tax collection in Pakistan is in the range of 0.81-0.89 percent in the last five years. It means that FBR is spending 80-90 paisa on the collection of every Rs 100. According to the FBR report on 'Cost of Federal Tax Collection -An Indicator of Efficiency of Tax Administration' issued here on Tuesday, only around 0.1 percent of the GDP is being spent on the collection of tax in Pakistan.

It said that there are four broad components of expenditure for FBR's tax collection. These include expenditures on Inland Revenue, Customs, developmental expenditure, FBR (HQ) and Revenue Division. The expenditure and tax collection regarding Inland Revenue and customs is separately available, but there is an issue of separating combined expenditure of two bodies related to Revenue Division, Developmental expenditure and FBR (HQ). If this combined expenditure is set aside and expenditure of each body is divided by its tax collection it reveals that cost of collection is comparatively higher for customs and has been higher than the Inland Revenue. In fact, cost of collection for customs has been on average 2 percent while it is 0.42 percent in case of Inland Revenue in the last five years. There is an explanation of higher customs cost of collection. The import related taxes other than customs are also collected by the customs departments where no extra expenditure allocation made to customs collectorates. During 2011-12, 32 percent of the collection was contributed by customs collectorates for Inland Revenue. If combined miscellaneous expenditures on both bodies are taken into account, it forms 0.23 percent of the total tax collection.

Interestingly, the cost of collection is reasonably low in Pakistan as compared to many other countries. Even though low cost of collection manifests efficiency but it also acts as constraint to revenue maximisation through compliance. In this respect, paucity of logistics, insufficient infrastructure, and meagre investment in human resource development are the key elements hindering further growth in revenues, report said.

It is extremely difficult to compare the cost of tax collection in many countries. There is a broad division between the developed and developing countries. There are different systems in different countries. Even tax systems in different regions provided variety of tax systems with varied bases and tax rates. Moreover, tax culture is extremely different. Box-1 provides details about the complexities and difficulties while making comparisons.

It is well established that cost of tax collection is low in Pakistan as compared to a number of the countries. It implies that taxation system is reasonable on this score and reflects administrative efficiency to some extent. It does not mean that everything is going well on part of tax administration. On the other hand, outcome of the resource mobilisation efforts is low as tax-GDP is quite low. In this context, cost of collection is a weak indicator of efficiency of tax administration due to various limitations and irrelevancies, report said.

It said that there are various issues with taxation system of Pakistan like huge exemptions, wider tax gap, low tax-GDP ratio, less effective audit and penalty system etc. If these issues are settled, tax revenues will improve significantly which will further bring down cost of collection. Improvement in revenue collection through reduced cost of collection should then be viewed as a by-product of effective management of human and physical resources. More resources are required for modernisation and enforcement. Similarly, skilled personnel will have to be increased. There is a need to modernise the taxation system and more funds are required to be allocated for human resource development.

Apart from huge cost of exemptions in term of revenue foregone, there is another cost of time consumption. The application of tax become difficult and takes more time the treatment of exempted goods for checking exemptions/SROs while ensuring due revenue deposited in national exchequer. The tax administrator has to check for exemption while collecting tax revenues.

Despite best efforts, the tax-GDP ratio is low. The government has to allocate most of the budget to the payment of debt servicing, defence etc. In this scenario, modernisation of FBR requires funds. In fact, more resources are required by the government for better enforcement and improved compliance. Hence, the government has to look for donors like World Bank and IMF. In this scenario, it is always difficult to adopt an indigenous course of action according to the requirements.

Before 2004-05, thresholds of sales tax for retailers and manufacturers were one million rupees and 0.5 million rupees respectively. Due to their lower contribution by small retailers and manufacturers, threshold was increased to five million rupees during 2004-05. It was justifiable, to a great extent, in view of cost and benefit considering in collecting revenues from small businesses where a large workforce is required and cost of administering tax is extremely higher. If the government takes the decision of lowering threshold, extra expenditures and efforts will be required for proper revenue realisation by the tax machinery.

After the formation of Inland Revenue, expenditures are compiled for RTOs and LTUs where all the domestic taxes are collected. The data for collection is available for individual taxes of Inland Revenue but expenditure is not available separately. This has created impediment in calculation of cost of collection of individual taxes of Inland Revenue, report added. – *Courtesy Business Recorder*

Suspension of registration process: Khyber Pakhtunkhwa E&T department faces Rs 80 million revenue shortfall

Khyber Pakhtunkhwa Excise and Taxation Department is facing a revenue shortfall of Rs 80 million due to suspension of registration process during the last three years, the has learnt. The registration process had been stopped since renaming of the province, as Khyber Pakhtunkhwa, and some other technical reasons, due to which more than 180,000 vehicles registration were lying pending to the provincial department of E&T from 2010, according to well-placed sources.

The sources further revealed that the revenue shortcoming of the department of E&T, which is hovering around Rs 70 to Rs 80 million amid huge backlog and pendency from 2010 up to date. In the present situation, the department revenue has recorded a sluggish as mostly vehicle owners are giving prefer to register vehicle in Punjab and rest of parts of the country, which was also causing huge revenues drawback to the department, an official told this scribe.

The officials informed that the EHA Hoffmann, GMBH, Germany firm, who awarded contract by authority for a period of five years, to development computerised vehicle registration system, has also shown great concern over gradually hampering the investment, as the company feels still insured about its contract with the authority, the an official, who acknowledgeable about the registration process informed. The company, the official said that, had assigned the job of issuing around 0.5 million computerised vehicles registration number plates and developing computerised database of all the vehicles registered in the province.

In April 2010, the company contract was extended as the task assigned to the firm could not be completed within the stipulated period owing to technical reasons, according to the sources. The sources further said that the stoppage of issuing new computerised number plates since September 2010 caused a substantial financial losses to the department after a large number of people got their new vehicles registered in other provinces. “A considerably declined in computerised vehicles registration rate was registered over the past two years, but the recovery ratio was also dim in the KP, the sources said.

The official informed that the process of issuance of computerised number plates was stopped due to renaming of province as Khyber Pakhtunkhwa in the light of 18th constitutional amendments in 2010. Through a circular, the KP government had instructed the authority not to issue number plates with old name after the renaming of the province.

When the province was renaming as Khyber Pakhtunkhwa, the sources informed that a huge stock of around 20,000 number plates along with 24,000 registration copies and 26,000 stickers was declared redundant by the German firm, EHA, which costly Rs 23 million. In August 2010, the department had moved a summary to then chief minister Ameer Haider Khan Hoti, about the exhausting of the redundant stock, the officials said.

The sources further disclosed that the summary was approved and amount worth of Rs 23 million had released the company on April

2011. In the meanwhile, the sources said that the National Accountability Bureau (NAB) had ceiled a bulk of stock amounting of Rs 23 million claimed by the company and initiated an inquiry in this regard. After carrying out a probe by NAB, the amount was un-ceiled on July 17 2012, due to which manufacturing and embossing plant was remained non-operational for last two year.

In wake of freezing of embossing plant, the officials said that the pending rose at 200,000 in the province, while the registration books were also seized. When the NAB has unsealed the stock, an official said that the department had cleared a pending of 42,000 by dispatching registration books, plates and stickers to entire district of the province, while also issued 50,000 new number plates as well.

The officials informed that registration process was carried out through online more than 17 districts of the province. The officials admitted that the authority had failed to supply computerised number plates to more than 180,000 new vehicle owners as NAB was the biggest hurdle before the huge clearing of pending cases.

Zaheer Ahmad, a resident of Peshawar city, complained that he daily visited the department of Excise and Taxation for getting computerised number plates but he left in empty handed every time. “I had submitted all perquisite documents a year back, but authorities are yet to be issue computerised number plates,” he added. Wajidullah Khan, who came to daily to registration of motorbike, said that police are fleecing them with charging huge fines on pretext of expiry date of temporary documents issued by the excise and taxation department. What we can do, I had visited number of time to get my registration, but not availed, he said. The visitors to the motor branch have urged the authorities to take notice of the situation. – *Courtesy Business Recorder*

Revenue body asked to ensure taxpayers’ data security

The outgoing Federal Tax Ombudsman (FTO) has asked the Federal Board of Revenue (FBR) to take corrective measures on an immediate basis for the security of taxpayers’ data in Pakistan.

The former FTO Shoaib Suddle instructed the revenue board to create a system where an e-intermediary, filing return on behalf of his clients, is verified by the concerned commissioner and the system must not issue an activation code without electronic approval by the commissioner.

Suddle issued this order as one of his before his tenure expired on a complaint filed by a Lahore-based tax lawyer Whaeed Shahzad Butt in which the solicitor pointed out loopholes in the FBR data system by providing substantial evidence to the FTO.

Butt alleged maladministration on part of the FBR, including negligence and incompetence when it came to ensuring the security/safety of taxpayers' confidential and classified data.

The complainant's main contention involved the ease with which any e-intermediary can show a taxpayer as his client in the FBR's e-system, even without knowing his e-mail ID or mobile number, and view confidential data held by the FBR.

In order to ascertain the authenticity of the complaint, Butt and relevant FBR officials, including CEO Pakistan Revenue Automation Ltd (PRAL) were called for a hearing on February 4, 2013.

The complainant, who is a registered e-intermediary, demonstrated how easy it was to gain unauthorised access to confidential data of any taxpayer.

During the hearing, he wrote down the mobile number of FBR representative, Nasir Khan, and requested the FBR's e-system to add Khan as his 'client'.

The e-system immediately sent an activation code on Khan's personal mobile number without cross verifying whether or not he was actually Khan's e-intermediary.

Further, Butt demonstrated that it was not necessary to use the mobile number of a taxpayer to break into the system. Any mobile number could be used to show a taxpayer as a client of the e-intermediary. Also, the data of a taxpayer could be manipulated without his permission, consent and knowledge.

The complainant then verified how the withholding tax statement of a government department could be successfully filed. He filed the withholding statements of Election Commission of Pakistan, Federal Public Service Commission, Cabinet Division, and 3 C.No.2/ISD/F FTO Secretariat. With permission, he successfully manipulated the FBR's e-system to show himself as an employee of FTO Secretariat who was paid a salary of Rs25 million, with income tax deducted on his salary at Rs5 million for the tax year 2011.

The complainant pointed out that FBR would show the FTO Secretariat as the 'highest tax-paying institution' if its data was used to verify the declared income in tax returns and paid tax.

If that wasn't a telling enough of the flaws in the FBR's e-system, he filed a return of income of Federal Tax Ombudsman Office for tax year 2010 with the Electronic Document Number (EDN) 31531105 showing an income of Rs100 billion, with Rs25 billion as tax paid by the FTO Secretariat and Rs99 (only) as refund due.

Butt alleged that anyone could exploit the verification process of the Election Commission of Pakistan by filing income tax returns/wealth statements without the actual taxpayer's consent, permission or knowledge.

Also, any election contestant could damage his opponent's candidature through filing incorrect income tax returns/wealth statements through an e-intermediary.

In other words, the whole ECP verification process could be manipulated. A candidate could even manage to show that he was a regular taxpayer, without being an NTN holder.

He went on to it was necessary to attach an authority letter from the taxpayer who is getting his taxes filed through an e-intermediary, a protocol which is not being followed by PRAL. A taxpayer having NTN certificate and e-enrollment is required to confirm his e-intermediary through his mobile number and e-mail address, which is already available with PRAL. Only after receiving such an email is PRAL supposed to send an activation code to the taxpayer's number, Butt said.

But PRAL CEO is not ready to accept the vulnerabilities of the FBR's e-system despite the public demonstration. He denied that the data of any taxpayer could be manipulated by an unauthorised e-intermediary and contended that it was a legal requirement under Rule 73(6) of the Income Tax Rules 2002 that a taxpayer must authorise the e-intermediary through an authority letter and only then could he add him as his client.

However, the authority letter could not be cross-checked by the presently devised e-system, but could be called by the concerned tax officer, if he so desired.

The DRs could not offer any plausible, justifiable defense against the evidence provided by the Complainant. They could not belie the withholding statements and tax returns of Federal Tax Ombudsman Secretariat, among others.

The former FTO also ordered the FBR to ensure that annual withholding statements and withholding certificates etc generated through the FBR's web portal do not end up in criminal hands.

Suddle also asked the board to commission a thorough investigation by a credible third party in relation to the vulnerabilities of the FBR's e-system and submit a compliance report with the Federal Tax Ombudsman office within 30 days. – *Courtesy International The News*

Importers face problems in cargo clearance

The importers of heavy machinery and chemical are facing problems in clearing their consignments as no collector customs of adjudication – I, Karachi, has been assigned by the Federal Board of Revenue (FBR) since the last 16 days.

Importers have requested the FBR chairman to appoint officers for early clearance of their consignments.

"The collector, collectorate of customs (adjudication – I) is transferred on July 01, 2013. Since then the post has been lying vacant, causing delays in cases that are pending before the collector," Khurram Ijaz, Ijaz & Sons, Customs Clearing & Forwarding Agents, requested the FBR in a letter.

On July 9, the FBR had notified a major reshuffle in Inland Revenue Services and Pakistan Customs and posted / transferred grade 20 and grade 21 officers. However, no assignment was given an officer for the position of collector adjudication – I. – *Courtesy International The News*

'Minimum tax' exemption: FBR acted beyond its jurisdiction: FTO

The Federal Tax Ombudsman has ruled that the Federal Board of Revenue (FBR) acted beyond its jurisdiction in exempting corporate sector service providers from 'minimum tax'. The FBR act of issuing Circular No 06/2009, and then inserting Clause 79 in the Second Schedule without approval of the Parliament speaks of improper motive, as also inefficiency, incompetence and ineptitude.

Sources told on Wednesday that in a recent order passed by former FTO Dr Muhammad Shoaib Suddle, it has been declared that the FBR has no authority to issue SROs/Circulars which contradict the statutory provisions of tax laws, as held by the Supreme Court. As no amendment to Section 153 was approved by the Parliament, the insertion of Clause 79 in the Second Schedule, changing the whole spirit of taxation regime, was clearly an act without jurisdiction.

The FTO order clearly said that the FBR issued Circular No 6 of 2009 for which it had no mandate. The issuance of exemption certificates by certain Commissioners of Income Tax to corporate entities, especially cellular companies was clearly illegal as after were introduction of minimum taxation of all service providers through Finance Act 2009, the 6 percent tax withheld became the minimum tax below which there was no possible threshold.

Sources said that earlier in 2011 while deciding a complaint filed by a Lahore based tax lawyer Waheed Shahzad Butt, FTO Dr Muhammad Shoaib Suddle, has directed the FBR to initiate appropriate action against officials who approved/issued Circular No 06 of 2009. Now while rejecting the review petition filed by FBR it has been observed by Dr Shoaib Suddle that the bumpy and conflicting sequence of Circulars and SROs leading to insertion of Clause 79 through SRO 1003 dated 31.10.2011, being wilful and mala fide comes under the definition of maladministration in terms of Section 2(3) of the FTO Ordinance 2000.

The FTO order states the applicant has filed a Petition seeking review of the Findings/Recommendations in complaint No 286/LHR/IT(240)/577/2011 disposed of vide order dated 16.12.2011. The following officials of the FBR submitted their viewpoint to ascertain the facts Taj Hamid, then Secretary IR Judicial, FBR, and presently Secretary IR (Revenue Budget), Aftab Ahmad who issued FBR Circular No 6 on 18.8.2009, Khalid Aziz Banth, then Member DT, Asrar Rauf, Additional Secretary Revenue and Chief ITP.

As regards the preliminary objection, Butt the Complainant is not an aggrieved person and the FTO can only assume jurisdiction if there is an aggrieved party, this objection is misconceived. Butt levelled allegations of systemic maladministration against the FBR functionaries and the FTO took suo motu notice in public interest, under Section 9(1) of the FTO Ordinance. An investigation of this nature does not necessitate a complainant.

Aftab Ahmad, the then Chief ITP, stated that he signed the FBR Circular No 6 on 18.08.2009 under pressure from Member DT, Khalid Aziz Banth. He did not fully grasp the significance of the Circular but just signed it. He stated that Banth had made up his mind that companies deriving income from services ought not be subjected to minimum tax @ 6 percent under Section 153(1)(b) of the Ordinance. He remained upset by the act of signing the Circular and ultimately on 26.04.2011 withdrew the notification. Also, he was told by Banth that his predecessor had already approved the issuance of the Circular. This assertion however turned out to be false, the FTO order said.

Asrar Rauf, Addl. Secretary Revenue, said that the 6 percent minimum tax was never applicable to companies rendering services. He said that it would not be in the ultimate interest of revenue as taxing the mobile phone companies would lead to flight of capital from Pakistan. In his opinion an adjustable tax over the year would serve Pakistan better.

The then Member DT, made a written deposition dated 24.09.2012. He stated that 1st Proviso to Section 153(6) had excluded companies rendering services (other than listed companies) from FTR and had also placed them out of the Minimum Tax Regime. The 2nd proviso related to media services which were similarly excluded. The 3rd proviso related to part (iii) of Section 153(6) and covered the resident, non-corporate sector. The corporate sector was already subject to minimum tax @ 1 percent of receipts through Section 113 of the Ordinance when the third proviso was added through Finance Act 2009. Therefore a second minimum tax under Section 153(6)(iii) could not relate to the corporate sector.

The first point that needs to be resolved is the import of Section 153(6)(iii). The 3rd Proviso clearly states that sub clause (b) of sub section (1) of Section 153 shall be the minimum tax. Banth in his statement maintained that this did not relate to the corporate sector. This contention is not based on any valid argument except that Section 113 makes the services performed by the corporate sector subject to a minimum tax @ 1 percent of receipts. However Section 113 applies only under certain conditions when no tax is payable by an individual, an AOP or a company. If minimum tax above 1 percent is leviable, then Section 113 is not applicable. Banth has also sought the shelter of Circular No 3 of 2009 and the Finance Act of 2011. Both do not support the issuance of Circular No 6. The FTO Office is concerned with the motive of Banth in pressurising his subordinates to issue Circular No 6. The attendant circumstances tend to show that he was doing this for improper motives. The service providers were first issued certificates of exemption by Commissioners, which were withdrawn when the FBR realised that the law did not provide for such exemptions, after Waheed Shahzad Butt lodged a complaint before the concerned Commissioners alleging huge loss of revenue being allowed to certain corporate sector service providers. Mr Butt also lodged a complaint No 1258/2010 in the FTO Office.

The FTO decided to obtain the assistance of the following amicus curiae: Dr Ikram ul Haq Advocate Supreme Court and International Tax Consultant. Rana Munir Hussein, Advocate, General Secretary Pakistan Tax Bar Association, Habib Fakhruddin, FCA, Consultant (formerly Member Tax Policy, CBR) and Syed Pervaiz Amjad, Consultant (formerly Member Audit, CBR).

Rana Munir Hussein said that he was of the considered view that earlier Circulars (C.No 1(6)WHT/2009 dated 04.07.2009 & Circular No 3 of 2009 dated 17.07.2009) and SROs issued after Circular No 6 for corporate taxpayers' income tax returns (SRO 1158 (1)/2010 dated 30.12.2010 and SRO 850(I)/2011 dated 17.09.2011 to notify electronic returns for Tax Years 2010 and 2011) were illegal because they did not support the law pertaining to levy of minimum tax as enacted by the Parliament.

Habib Fakhruddin, FCA, Consultant, formerly, Member Tax Policy, CBR, said that he wanted to draw attention to the concluding paragraph of the Departmental Review Application. In that paragraph, which was akin to a prayer, the Dept asserted that the issuance of Circular No 6 was valid and FBR had done nothing wrong in the matter. However, it was interesting that FBR had considered it fit to file a Review Application after it recognised that the issuance of Circular No 6 had been a mistake. He further pointed out that as against the single Circular No 6 that asserted there was to be no 6 percent minimum tax on companies rendering services, there were a host of other Circulars and Clarifications that affirmed quite the opposite. He said that it was important to find out why this was so. He pointed out that initially, after changes were made in Section 153 through Finance Act 2009, a Commissioner issued exemption certificates to some corporate service providers. The certificates were withdrawn after the Commissioner was told that the law with regard to taxation of services sector income having been changed through Finance Act 2009, no exemption from tax was available for such taxpayers. Within a few days, however, Circular No 6 was issued by FBR. This again made it possible for corporate taxpayers rendering services to obtain exemption certificates. It was thus obvious that certain taxpayers with influence in the corridors of power were behind the move to get Circular No 6 issued.

Habib Fakhruddin pointed out that notifications for corporate returns for Tax Year 2010 and Tax Year 2011 were in line with Circular No 3 that correctly explained the minimum tax levy and were against Circular No 6 and its distorted view of minimum tax. It was significant that the legislature totally disregarded Circular No 6 of 2009 while approving tax returns for Tax Years 2010 and 2011 for corporate taxpayers.

Syed Pervaiz Amjad, FCA, Consultant, formerly, Member Audit, CBR, was of the view that new taxation measures were generally meant to seek increase in revenues. However, Circular No 6 went against this objective and was a strange 'Clarification' of the law after changes were made in Section 153 through the Finance Act 2009. In his view, Circular No 6 gave unwarranted relief from minimum tax to certain blue-eyed taxpayers. The withdrawal of Circular No 6 by Aftab Ahmed who also issued the earlier Circular was, in his view, proof of intentional wrong done by FBR functionaries that was directly linked to the resultant losses in revenue which ran into billions. In his view, mens rea of FBR functionaries was clearly established by the sequence of events following amendments made in Section 153 of the Ordinance through Finance Act 2009.

Dr Ikram ul Haq, Advocate Supreme Court, said that the statute was required to be read as a whole and not piecemeal. He said that the rationale for levy of alternate minimum tax was clear. So many inflated expenses are booked by taxpayers when filing returns that the tax base is drastically eroded and tax yield plummets to an intolerably low level. The only way out of this predicament is to resort to measures like enactment of alternate minimum tax. He further said that instead of creating consistency by issuing Circulars, FBR was actually creating inconsistency. He said that in the presence of back up material it was not possible to presume that FBR was unaware that minimum taxation applied to the corporate sector. The FBR made repeated mistakes in matters pertaining to levy of minimum tax and it was just not plausible that only one Circular was correct (ie Circular No 6) and all other Circulars/Clarifications (about 12 in number) were wrong.

All this suggests that with regard to charge of minimum tax on corporate service providers, there was something seriously amiss with FBR. It appeared to be adrift, without any clear long term policy or coherent plan for effective resource mobilisation. The net result of the repeated FBR somersaults and flip flops with regard to levy of minimum tax on companies left taxpayers more confused than ever and the situation has not been properly resolved to this day.

Summing up, three of the four amicus curiae unequivocally held that minimum tax under Section 153(1)(b)/153(6), and, after Finance Act 2011, Section 153(1)(b)/153(3)(b), was for all service sector taxpayers, corporate as well as non corporate. All three affirmed that Circular No 6 was based on a wrong and possibly motivated view of the law pertaining to minimum taxation under Section 153. It is evident that FBR issued Circular No 6 of 2009 for which it had no mandate. There could be no greater indictment of a government agency charged with the mobilization of revenue - revenues desperately needed by the State - than what it did by issuing Circular No 6, the FTO order added.

After withdrawal of Circular No 6 of 2009, further Clarifications/Statements/SROs were issued by the FBR on 26.04.2011, 28.04.2011, 17.06.2011, and 01.07.2011. On 06.09.2011, Secretary IR, confirmed in a hearing at the FTO Secretariat that Circular No 6 was wrongly issued. Aftab Ahmad, Chief Income Tax Policy, also stated (during the hearing of the Review Application) that Circular No 6 of 2009 was unlawful and he had signed that Circular under pressure. All these admissions and clarifications notwithstanding, on 31.10.2011, SRO No 1003 was issued to grant exemption to the corporate sector from minimum tax by inserting Clause 79 to the Second Schedule of the Income Tax Ordinance 2001.

It is quite intriguing that SRO No 1003 dated 31.10.2011 was issued inserting Clause 79 in the Second Schedule without getting retrospective approval of the amendment in Section 153 by the Parliament through Finance Act 2011. Only sub-sections of Section 153 were 'realigned to provide clarity without changing the taxation regime' through Finance Act 2011 as explained by FBR itself in para 19 of Circular 7 of 2011, dated 01.07.2011. Nor has the approval of the Parliament been sought through Finance Act 2012 or Finance Act 2013. The bumpy and conflicting sequence of Circulars and SROs leading to insertion of Clause 79 through SRO 1003 dated 31.10.2011 being wilful and mala fide comes under the definition of maladministration in terms of Section 2(3) of the FTO Ordinance 2000, the FTO order added. – *Courtesy Business Recorder*

Massive shortfall in collection: LTUs, RTOs asked to explain reasons

The Federal Board of Revenue (FBR) has directed Chief Commissioners of Large Taxpayer Units (LTUs) and Regional Tax Offices (RTOs) to explain reasons of massive shortfall in revenue collection during fiscal year 2012-13. Sources told here on Wednesday that the tax authorities had issued instructions to the Chief Commissioners of the LTUs and RTOs to share circumstances which led to huge revenue shortfall in 2012-13.

Each Chief Commissioner would explain specific reasons for revenue shortfall with commodity/item-wise collection during the period under review, they added. According to final revenue collection figures, the FBR has collected Rs 1942.3 billion during 2012-13 against the revised target of Rs 2007 billion for the period under review. Direct taxes collection was Rs 739.8 billion against the target of Rs 779 billion; sales tax collection Rs 842.4 billion against the target of Rs 865 billion; federal excise Duty (FED) collection was Rs 122.6 billion against the target of Rs 122 billion and collection of customs duty was Rs 237.5 billion against the revised target of Rs 241 billion.

As per data, the FBR has collected Rs 1942.3 billion during 2012-13 against Rs 1882.7 billion collected in the previous fiscal year. In this regard, a conference of Chief Commissioners Inland Revenue of all LTUs/RTOs has been scheduled for July 22 at FBR (HQ), Islamabad. Main agenda items are: reasons for shortfall in revenue in 2012-13, sectoral analysis of revenue, position of recovery from arrears and current demand, performance regarding audit cases and withholding taxes.

The Board has already assigned budgetary targets for the year 2013-14 to all LTUs/RTOs. All Chief Commissioners are expected to frame a comprehensive strategy for achieving the targets. This strategy will also be discussed in the conference. The FBR has further directed the Chief Commissioners to chalk out a future strategy for achieving targets. – *Courtesy Business Recorder*

Board-in-Council to approve new job descriptions of FBR Members

Board-in-Council of the Federal Board of Revenue (FBR) is expected to approve new job descriptions of the FBR Members, clearly distinguishing powers and functions of FBR Member

Inland Revenue, Operations and Member Policy Inland Revenue. Sources told here on Wednesday that the meeting of Board-in-Council would be held on July 18 (Thursday) to be chaired by FBR Charmin Tariq Bajwa.

This would be the first Board-in-Council meeting called by new FBR Chairman to discuss policy issues. The meeting would give approval to job description of all Members of FBR. The Board-in-Council meeting may also give approval of the appointment of the Legal Consultant for the FBR and absorption/induction of deputationists in FBR House. The FBR will finalize the new job description of Members after incorporating their viewpoints during Board-in-Council meeting. Changes may be made in the proposed job description of FBR Members during meeting, if required.

According to the proposed job descriptions, Member Policy (Inland Revenue) would be empowered to deal with all matters relating to policy, rules and regulations of income tax, sales tax and federal excise duty and interpretation of related laws. He would have the authority to deal with policy matters pertaining to the functions like exemptions; double taxation and judicial/legislation issues.

Member Policy (Inland Revenue) would also be empowered to liaise with international organisations/agencies on all matters relating to Inland Revenue and supervision of all inter-ministerial issues related to Inland Revenue. The proposal said that the Member Operations (Inland Revenue) would have the authority to carryout supervision of domestic operations nation-wide. All the Chief Commissioners of all Regional Tax Offices and Large Taxpayer Units would be legally bound to report to Member Operations (Inland Revenue). He would have the authority to monitor revenue collection and achievement of revenue targets by field officers.

FBR Member Customs would handle all policy/rules/regulation matters governing levy and collection of customs and interpretation of related laws. He would deal with allied functions including exemptions; duty drawbacks; rebates; changes/modifications in Pakistan Customs Tariff and judicial/legal issues. He would liaise with international organisations/agencies on matters relating to Customs. He would be responsible for the achievement of budgetary targets/supervision of operations. He would also handle processing, short listing and nominating officers of customs for customs specific foreign training. FBR Member Customs would have the authority to supervise all inter ministerial issues related to Pakistan customs.

As per the proposal, FBR Member (Administration) would have the powers of posting/transfers/promotions of the employees. Overall administration of Federal Board of Revenue and field formations would be the responsibility of the Member Admin. He would have the authority for processing, short listing and nominations of officers of FBR for mandatory training/courses such as MCMC, SMC, NMC and NDU.

FBR Member (Administration) would be responsible for budget management of FBR and perform/initiate FBR employees' welfare activities. FBR Member Legal would be empowered to grant approval for filing of appeals/references before High Courts and CPLAs before the Supreme Court as well as keep co-ordination to ensure filing of para-wise comments in courts and pursuing litigation in High Courts and Supreme Court. He would be responsible for co-ordination with Law Division, Attorney General for Pakistan and assigning and monitoring of performance of Legal Advisors and Advocates on panel.

He would be engaged in the co-ordination with field officers to ensure representation in each case sub-judice before the court. He would have the mandate to co-ordinate with field officers in respect of matters relating to the appointment of ASCs and AORs in tax cases, fee matters of such advocates and co-ordination with field formations for recommendation of names of advocates to the Ministry of Law for their nomination on FBR panel.

FBR Member Legal would be responsible for continuous maintenance and updating the list of pending cases before the Supreme Court and High Courts on the official website of FBR. He would be responsible for co-ordination in respect of matters relating to the National Assembly and Senate Standing Committees on Revenue and Finance. He would co-ordinate in respect of matters relating to Inter Provincial Co-ordination Committee.

FBR Member Legal would provide condonation of time limitations against requests filed by the Commissioner Inland Revenue Appeals and Collectors Appeals. He would be engaged in the monitoring of work of Commissioner Inland Revenue Appeals and Collectors Appeals and rationalisation of work load of appeals.

FBR Member Legal would have to circulate important judgements of the courts to the field offices and placing the same on official website of the FBR. He would be engaged in monitoring the work of Task Forces constituted for the purpose of liquidation of sub judice cases before the Supreme Court and High Courts. He would also co-ordinate with field offices and Federal Tax Ombudsman (FTO) office to ensure submission of reports to FTO, implementation of FTO recommendations, filing of representation before the President and their review before the FTO.

FBR Member Facilitation and Taxpayer Education (FATE) would act as the official spokesperson of FBR. He/she would be responsible for facilitation and education of taxpayers through development and execution of media campaigns on operational and policy matters of FBR. FBR Member FATE would deal with the awareness campaigns, conferences/workshops/ seminars for taxpayers. He/she would supervise the publication of FBR's newsletter. FBR Member FATE would provide taxpayers assistance by addressing their queries through call centre/helpline/emails/fax, etc.

FBR Member FATE would deal with the FBR's official website, dissemination of explanatory literature, brochures, FAQs for taxpayers' facilitation and education, monitoring Tax Facilitation Centers (TFCs) and their evaluation to improve their facilitative measures and create taxpayer-friendly environment for greater taxpayer satisfaction and address taxpayers' grievance received under Section-7 of FBR Act, 2007.

The proposed job description further said that FBR Member Enforcement & Withholding would be empowered to deal with the planning and designing procedures regarding tax returns and tax payments; tax return processing; taxpayer registration matters; control of unregistered taxpayers; control of non filing and collection of arrears. FBR Member Enforcement & Withholding to evaluate enforcement and withholding tax activities for all domestic taxes.

FBR Member (Taxpayers Audit) would be engaged in planning and designing audit procedures. The job description of the Member also included evaluating tax audits for all domestic taxes; devising and implementing a national audit plan; evolving and designing case selection criteria to extend audit coverage to all higher risk areas; selection of cases for audit and spearheading the process of developing the audit methodology to assure audit quality.

FBR Member Accounting would deal with all matters relating to PAC/DAC on audit reports/ performance audit reports/special studies reports. He would deal with all matters relating to PAC/DAC on appropriation accounts (grants with AGPR), all matters relating to DAC on management/MFDAC (Memorandum for Departmental Accounts Committee) reports and Financial Attest of Financial Statements (Revenue Components) for each financial years. He would co-ordinate with Auditor General of Pakistan and Public Accounts Committee in matters relating to audit and vice versa, as per proposed job description.

FBR Member Strategic Planning Reforms & Statistics (SP&S) would have to formulate revenue targets and strategic planning for their achievements in consultation with line members. He would be responsible for making available in-depth analysis of the data regarding collection of individual taxes ie Direct taxes, Indirect taxes, Customs duty etc. He would provide fiscal updates on the revenue generating efforts as well as conduct studies, suggested by other FBR Wings, sources added. – *Courtesy Business Recorder*

NFC anomalies

In his article 'Safeguarding the IMF programme' (July 15), Ashfaque H Khan stressed the need for making the Federal Board of Revenue's revenue target less wishful for striking a realistic deal with the provinces. This means not to expect surpluses from the provinces unless the centre achieves the promised revenues. If there is a stalemate, and the provinces fail to agree with the centre on the requisite provincial surplus targets, the expected IMF programme may be in jeopardy. It is difficult, however, to see the IMF agreeing on a lower revenue target for the federal government. From the IMF's point of view, a revised revenue target might have the opposite effect: the will of the federal government for overhauling resource mobilisation may be seen to have dampened. By that line of argument, a reduced revenue target will result in even lesser revenues.

Perhaps a parliamentary review of the anomalies in the current NFC Award is the only option the government has, the importance of which is strongly echoed in Dr Ashfaque's article. As for the short term, it is hoped that the provinces and the centre both act responsibly and don't get too shaky even before the programme starts. After all, a few slippages are allowed even in 'successful' IMF programmes. – *Courtesy International The News*

FBR notifies: Tax relief for writing materials, dairy items

The federal government, abiding by its commitment, has restored zero rating facility on raw materials for stationery, dairy products and bicycles, resulting in a waiver of 17% sales tax on these items.

According to a notification issued on Thursday by Federal Board of Revenue (FBR), the import and local supply of raw materials will be charged at zero rates, subject to a number of conditions.

On June 12, the FBR had taken away the zero-rating facility from the writing instruments manufacturing industry, bicycles and dairy products, while bringing these sectors to 'exempted sectors'.

However, while wrapping up his budget speech, Finance Minister Ishaq Dar had announced the restoration of the facility for these sectors.

Despite the announcement, FBR has issued relevant notification to this effect after a lapse of three weeks.

According to the notification colours in sets, writing, drawing and marking inks, erasers, exercise books, sharpeners, geometry boxes, pens, ball pens, markers, pencils, milk including flavoured milk, yogurt, cheese, butter, desi ghee, cream, fat filled milk and bicycles will be entitled to avail zero rating facility.

The zero rating will be available subject to determination of input and output ratios by the Input-Output Co-efficient Organisation, if not already determined under an earlier concessionary notification issued for such goods.

Further, for import and local procurement of raw materials and packing materials, the manufacturer of the goods will submit a complete list of his annual requirement of the inputs he intends to import or purchase locally to the Commissioner Inland Revenue.

The Commissioner will then approve the declaration of input-output ratio of the manufacturer, without physical verification, in case the declared input-output ratio and input requirement is in accordance with the prevailing industry average or the inputs consumption pattern of the applicant manufacturer or as already determined by IOCO.

In case the Commissioner is not satisfied with the declared input-output ratios of the goods, he may, after allowing a six months provisional quantity, make a reference to the IOCO for final determination thereof.

On receipt of report from IOCO the Commissioner will then determine the final annual quantitative entitlement of inputs and grant final approval for zero-rated purchases or imports. In case of non-receipt of report from IOCO within four months of the application made by the manufacturer, the Commissioner will provisionally allow another six months quantity to the applicant manufacturer.

The manufacturers will have to consume the raw material from within a year of purchase. After consuming the raw materials the manufacturers will communicate to the concerned Commissioner of Inland Revenue in writing about the consumption within three months.

It further added that in case the input goods are not consumed within the period allowed in the approval, the manufacturer will pay the amount of sales tax involved or obtain extension from the Commissioner of Inland Revenue under intimation to the Collector of Customs.

In case it is found that the inputs have not been properly accounted for or consumed in the manufacture and supply of goods as prescribed, the Commissioner may initiate proceedings for recovery of the sales tax involved on the unaccounted inputs besides penal action under the relevant provisions of the Sales Tax Act, 1990.Further giving discretionary powers to the tax officials, the notification stated that under circumstances of exceptional nature and for reasons to be recorded in writing, the concerned Commissioner may relax any of the conditions.

The FBR has garnered criticism from the industry for its decision to give such vast discretionary powers to the Commissioners, which they say will increase interaction with the tax machinery and opening another avenue for corruption. – *Courtesy The Express Tribune*

Dairy items, stationery, bikes: ST zero-rating facility restored

The Federal Board of Revenue has restored sales tax zero-rating facility for dairy products, stationery items and bicycles along with their raw material, packing material, sub-components, components, sub-assemblies and assemblies, imported or purchased locally for manufacture of above mentioned goods. The Board has issued an S.R.O.670(I)/2013 on Thursday in this regard.

According to the notification, the FBR has directed that import and supply of the following goods and their raw materials, packing materials, sub-components, components, sub-assemblies and assemblies imported or purchased locally for the manufacture of the said goods shall be charged to sales tax at the rate of zero percent: Colors in sets, writing, drawing and marking inks, erasers, exercise books, pencil sharpeners, geometry boxes, pens, ball pens, markers and porous tipped pens, pencils including color pencils, milk including flavoured milk, yogurt, cheese, butter, cream, desi ghee, milk and cream, concentrated and added sugar or other sweetening materials, preparations for infant use put up for retail sale, fat filled milk and bicycles.

This is subject to the condition that the zero-rating under this notification shall be available subject to determination of input/output ratios by the Input Output Co-efficient Organisation (IOCO), if not already determined under an earlier concessionary notification issued for such goods. Provided that this condition shall not be applicable in case of import of finished goods and their supply in same state and for import and local procurement of raw materials, packing materials sub-components, components, sub-assemblies and assemblies for the manufacture of the goods specified conditions and procedures shall be followed.

The FBR said that a sales tax registered manufacturer of the goods specified having suitable in-house facilities shall submit, in the format prescribed in Annex-A to this notification, the complete list of his annual requirement of the inputs he intends to import or purchase locally for the manufacture of goods specified to the Commissioner Inland Revenue having jurisdiction.

The Commissioner shall approve the declaration of input-output ratio of the manufacturer without physical verification in case the declared input-output ratio and input requirement is in accordance with the prevailing industrial average or the input consumption pattern of the applicant manufacturer or as already determined by IOCO under an earlier notification issued for such goods, in the format of approval prescribed as Annex-B to this notification.

In case the Commissioner is not satisfied with the declared input-output ratios of the goods to be manufactured because of their being prima facie not in accordance with the prevalent average of the relevant industry or in case the input-output ratios are not already determined by IOCO, he may, after allowing a six months provisional quantity, make a reference to the IOCO for final determination. On receipt of report from IOCO the Commissioner shall then determine the final annual quantitative entitlement of inputs and grant final approval for zero-rated purchases or imports. In case of non-receipt of report from IOCO within four months of the application made by the manufacturer, the Commissioner shall provisionally allow another six months quantity to the applicant manufacturer, notification said.

In case of goods to be imported by the registered manufacturer, the authorised officer of Inland Revenue shall furnish all relevant information online to Customs Computerised System as per Annex-C to this notification against a specific user ID and password obtained under section 155D of the Customs Act, 1969 (IV of 1969). The FBR further said that where a registered person supplies goods to a registered manufacturer of goods specified in the said Table, he shall issue a zero-rated invoice under section 23 of the Sales Tax Act, 1990 mentioning the name, sales tax registration and approval number of the buyer.

The registered manufacturer of goods specified in the said Table will be entitled to claim refund of input tax paid on utilities and such inputs, which are purchased by him after payment of sales tax, in terms of section 10 of the Sales Tax Act, 1990 read with the relevant provision of the sales tax rules, 2006.

The FBR stated that the registered manufacturer shall maintain complete records of the inputs imported or locally purchased and the goods manufactured there from. The input goods allowed under clause (ii) shall be consumed within twelve months of purchase or import thereof, where the consumption period shall start from the date of purchase or import of input goods. However, the input goods shall be purchased or imported before the expiry date of the approval. However, the manufacturer shall communicate to the concerned Commissioner of Inland Revenue in writing about the consumption of imported or locally procured inputs within 90 days of their consumption. The indemnity bond shall be released on receipt of written confirmation regarding consumption of goods by the manufacturer.

In case the input goods are not consumed within the period allowed in the approval, the manufacturer shall pay the amount of sales tax involved or obtain extension from the Commissioner of Inland Revenue under intimation to the Collector of Customs.

The concerned Commissioner Inland Revenue, whenever he deems necessary but not more than once in a calendar year, may get the records of the manufacturer audit. In case it is found that the inputs have not been properly accounted for or consumed in the manufacture and supply of goods as prescribed, the Commissioner may initiate proceedings for recovery of the sales tax involved on the unaccounted inputs besides penal action under the relevant provisions of the Sales Tax Act, 1990 and (l) under circumstances of exceptional nature and for reasons to be recorded in writing, the concerned Commissioner may relax any of the conditions, if he is satisfied that such condition is detrimental to the bona fide purposes of manufacturer's business, subject to such surety or guarantee he may deem appropriate to secure the sales tax and to ensure proper and utilisation of the imported or locally procured goods, the notification added. – *Courtesy Business Recorder*

FIs, banks required to comply with FATCA of US before January 1

Pakistani financial institutions and banks are required to comply with Foreign Accounts Tax Compliance Act (FATCA) of United States before January 1, 2014. Sources told here on Thursday that the salient features/requirements of FATCA are: Foreign Financial Institutions (FFIs) need to enter into an agreement with the Internal Revenue Service (IRS), US tax authority and become participating FFIs (latest by January 1, 2014).

All participating FFIs would need to identify and document information on US accounts maintained with the FFI by US persons or US owned entities (initial review to be completed by January 1, 2014). Another requirement of FATCA is to report certain information on the identified US accounts (name, address, account number, Tax Identification Number-TIN, account balance, income and the gross proceeds) and the Recalcitrant accounts (aggregate number and value of accounts) to the IRS, on an annual basis (limited reporting to initiate from March 31, 2015 covering calendar years 2013 and 2014).

A key feature of the FATCA is to withhold 30 percent tax on withhold-able payments (US source income and gross proceeds from the sale of property) and any foreign pass-through payments made to Non-participating FFIs (First withholding to begin from January 1, 2014).

Sources said that the government is looking into the modalities of possibility of signing a bilateral treaty ie Inter Governmental Agreements (IGAs) with United States for implementation of the

Foreign Accounts Tax Compliance Act (FATCA) for Pakistani financial institutions/banks. Ministry of Finance, State Bank of Pakistan (SBP), Securities and Exchange Commission of Pakistan (SECP), Federal Board of Revenue (FBR), Ministry of Foreign Affairs and Ministry of Law and Justice are co-ordinating for finalising the methodology to meet the requirements of the FATCA.

Details revealed that the Foreign Accounts Tax Compliance Act has been enacted by US Congress in March 2010 and will be implemented through certain Regulations to be issued by the US Treasury Department and the Internal Revenue Service (IRS), the US tax authority. Salient features/requirements of FATCA showed that the Foreign Financial Institutions (FFIs) need to enter into an agreement with the IRS and become participating FFIs (latest by January 1, 2014).

All participating FFIs would need to identify and document information on US accounts maintained with the FFI by US Persons or US owned entities (initial review to be completed by January 1, 2014). Secondly, report certain information on the identified US accounts (name, address, account number, Tax Identification Number - TIN, account balance, income and the gross proceeds) and the Recalcitrant accounts (aggregate number and value of accounts) to the IRS, on an annual basis (limited reporting to initiate from March 31, 2015 covering calendar years 2013 and 2014).

Thirdly, withhold 30 percent tax on withhold-able payments (US source income and gross proceeds from the sale of property) and any foreign pass-through payments made to Nonparticipating FFIs (1st withholding to begin from January 1, 2014). Sources said that to maintain international business and trade, Pakistani Financial institutions (FIs)/banks will have to comply with the FATCA requirements. FIs/banks can only provide information of account holders if it is required by law or the customers waive their confidentiality rights. However, apparently compliance to the requirements of FATCA seems unavoidable for Pakistani FIs/banks as non-compliance would expose them to 30% withholdings on US based earnings and also on the pass-through payments. Further, it may also harm the correspondent relationship of Pakistani FIs/banks with banks especially in the US and FIs may eventually be isolated from the global financial services, markets and face significant commercial, reputational and financial risk. Consequently, it may also harm our international trade. For compliance, banks will have to modify their core banking systems and there are also legal impediments, including secrecy laws, which may obstruct our FIs to sign any such agreement with a foreign agency and to provide such information thereof.

In view of global approach to FATCA compliance and to address legal issues including secrecy laws, Pakistan Banks Association (PBA) had suggested an Inter-Governmental approach under which an agreement can be signed at Governments level. The agreement will allow FIs/banks to report information of accounts of US Citizens directly to the local regulatory authority, rather than to the IRS, The local regulatory authority would then share that information with the IRS and vice versa receive information required by our tax authorities, sources said.

Currently, the US Department of the Treasury is engaged with more than 50 countries and jurisdictions around the world to improve international tax compliance and implement the information reporting and withholding tax provisions. The US Treasury has published model Inter Governmental Agreements (IGAs) for implementing FATCA. These models serve as the basis for concluding bilateral agreements with interested jurisdictions.

As per the available information and the model agreements, published by Office of the US Treasury, an inter Governmental approach can be adopted for sharing information on reciprocal basis. As laid down in the model IGAs there are two possible options for such approach.

Under Model-I, FIs will report information about accounts and beneficial ownership of US persons to their respective tax authorities, followed by automatic exchange of such information under existing bilateral tax treaties or tax information exchange agreements. There are two versions of Model-I Intergovernmental Agreements, ie, Reciprocal and Non-Reciprocal Agreements. Under Model-II, FIs will report information about accounts and beneficial ownership of US persons directly to the Internal Revenue Service (IRS) supplemented by information exchange between USA government and partner government on request.

From the forgoing, it is obvious that FATCA requirements seems imperative for Pakistani FIs/banks and they will have to share required information with IRS or else face a 30 percent withholding and other related risks. However, an IGA will not only facilitate FIs/banks in providing information rather it may also benefit Pakistan in terms of tax collection from Pakistani nationals having accounts with banks in US. Therefore, it would be appropriate if Government of Pakistan enters into similar arrangements with the US Government for sharing such information on a reciprocal basis. The US government has already welcomed signing IGAs with interested jurisdictions, sources added. – *Courtesy Business Recorder*

Power theft: five SDOs, RO suspended

Five Sub-Divisional Officers, One Revenue Officer and one Commercial Assistant have been suspended as power pilferage in a Textile Mill on Jhang Road was proved. According to detail electricity was being stolen in Younis Industries under the head of MDI for the last some time. On a tips Chief Executive Officer (CEO) Fesco Dr Rana Abdul Jabbar Khan set up a high level committee to investigate into this issue.

After investigating the power pilferage was proved hence the SDO's Sajjad Haider Aawan, Zibda-tul-Zia, Shahzad Mehmood, Sheikh Awais Rasheed, Revenue Officer Abdul Hafeez Nadeem and Commercial Assistant Muhammad Ashraf were immediately suspended on their poor performance.

The electricity meter of the factory has been removed and a fine of rupees 3.5 million has been imposed on the factory owner. Chief Executive Officer (CEO) Fesco Dr Rana Abdul Jabbar Khan has reiterated that anti-theft campaign against power pilferers will continue till the total illumination of this manner. He said that the power pilferers and corrupt Fesco officials would be taken to task. Anybody who may be influential would not be spared.

Meanwhile, the Anti-Theft Squad, headed by DCO, Najam Ahmed Shah, conducted a raid in Shadab Colony (Jhang Road) under supervision of AC Sader, Shafi Ullah, detected a Network through which Gas was being supplied illegally to 100 Houses of the Colony by laying an underground concealed pipe and connecting it with the Main Gas Pipelines and there was no Meter installed at the premises to show the consumption of the gas.

The Raiding Party Head was informed by the dwellers of the Colony that they were paying a sum of rupees 800 per house to the gas suppliers every month. The Anti-Theft Squad also conducted a surprise raid in Street No 12 of Mohallah Mansoor Abad, under direction supervision of DCO, Najam Ahmad Shah, CPO Abdur Razzaq Jappa, Assistant Commissioner(City) Zaheer Anwar Jappa and SP(Counter-Terrorism Department) Humayun Ahmad and traced that a Plastic Printing Factory was running 3 Big Generators with usage of Gas and producing 1 Maga Watt electricity which was being used for running the Factory and the surplus electricity was sold to the residents of the Mohallah. – *Courtesy Business Recorder*

Post of FBR Member IT approved

The Board-in-Council of the Federal Board of Revenue Thursday approved a new position of FBR Member Information Technology (IT). Sources told here on Thursday that the decision has been taken during the Board-in-Council meeting chaired by FBR Chairman Tariq Bajwa. It has been decided to create a new post of Member (IT) at FBR level.

Raana Ahmad DG of Directorate General of Internal Audit would be given new position of FBR Member IT. The Board-in-Council has also approved new Job Descriptions of the FBR Members including Member Policy (Inland Revenue); Member Operations (Inland Revenue); FBR Member Customs; FBR Member (Administration); Member Legal; Member Facilitation and Taxpayer Education (FATE); Member (Taxpayers Audit); Member Accounting and Member Strategic Planning Reforms & Statistics (SP&S). – *Courtesy Business Recorder*

ST collection: SBP urged to direct NBP to depute more staff

The Lahore Chamber of Commerce and Industry (LCCI) has urged the Governor State Bank of Pakistan to direct the National Bank (NBP) authorities to depute more staff for Sales Tax collection. The LCCI Vice President Mian Abuzar Shad feared that the government might not be able to get required revenue under the head of Sales Tax in the given timeframe due to thin staff at NBP branches in the City.

He said that the Lahore Chamber of Commerce and Industry had received a number of complaints from the businessmen who had to wait for hours for submission of their Sales Tax dues. He said that it was the duty of the authorities at the State Bank of Pakistan (SBP) to ensure maximum facilitation to the tax payers but it seemed that they were kept in darkness and always given "OK" report.

The LCCI Vice President said that the State Bank in collaboration with the FBR should put in place a mechanism to review NBP arrangements for tax collection and facilities to the tax payers. Meanwhile, Mian Abuzar Shad has urged the SBP Governor to ensure provision of 100 and 50 denomination notes at all banks as the shortage of currency of small denomination is creating multiple problems for the business community in particular. – *Courtesy Business Recorder*

Exemption of minimum tax: FTO asks FBR to take action against officials

Dr Shoaib Suddle, former Federal Tax Ombudsman (FTO), ordered Federal Board of Revenue (FBR) to initiate appropriate disciplinary action against officials responsible for exempting corporate sector service providers from ‘minimum tax’ and either get the exemption approved from the Parliament retrospectively or delete the relevant clause from the Income Tax Ordinance 2001.

In an order issued during his tenure as FTO, Dr Suddle had further directed the FBR to take immediate measures either to delete the Clause 79 from the Second Schedule of the Ordinance or to get it approved retrospectively by the Parliament and initiate appropriate disciplinary action against the officials found responsible for issuing Circular 6 of 2009 and inserting Clause 79 in the 2nd Schedule.

Sources told here on Thursday that in a recent order passed by Dr Muhammad Shoaib Suddle, it has been declared that the FBR has no authority to issue SROs/Circulars which contradicts the statutory provisions of tax laws, as held by the Supreme Court.

FTO order states that Finance Act 2009 introduced the concept of minimum tax on payments made to service providers. Section 153(1)(b) read with Section 153(6) of the Ordinance removed the service sector from the purview of the Fixed Tax Regime (FTR) and made tax deducted at source adjustable against final demand of tax for all categories of taxpayers: individuals, AOPs and companies. However, while the nominal rate of minimum tax was pegged at 6 percent of gross receipts by way of a minimum threshold, when the receipts were set-off against expenses incurred incidentally to realisation of receipts for services rendered, it was possible for the minimum tax yield to go up. Again, when receipts for services rendered were clubbed with non service receipts or with receipts where no tax had been deducted u/s 153(1)(b), the tax yield could go up when the total clubbed receipts were to be subjected to taxation at normal rates of tax.

The potential for minimum taxation to augment revenues was eroded when Circular No 6 of 2009 was issued by FBR on 18.08.2009 and all corporate entities rendering/providing services were taken out of the purview of the Minimum Tax Regime and tax deducted at source became fully adjustable against demand thereby creating the possibility of refund of deducted tax. Thus when it became evident that in the presence of minimum taxation, the issuance of exemption certificates was not valid, Circular No 6 of 2009 was devised to dilute the changes brought about in Section 153 of the Ordinance through Finance Act 2009, ignoring the fact that after Section 153 was amended through Finance Act 2009, the FBR had clarified the concept of minimum tax through C.No 1(6)WHT/2009 dated 04.07.2009, followed by Circular No 3 of 2009 dated 17.07.2009 in the illustration.

FBR's intent to undo minimum taxation of service sector receipts was exposed when a complaint (C.No 577 of 2011) was filed before the Federal Tax Ombudsman on 06.06.2011, requesting suo motu cognisance of unjust and improper actions of FBR functionaries in issuance of illegal exemption certificates by the Deptt. The FTO also took cognisance of the placement of defective electronic tax return format for service sector taxpayers on the FBR web portal that wrongly calculated the minimum tax liability. The FTO recommended that the errant personnel be identified by FBR and disciplinary proceedings taken against them. Earlier, in another Own Motion action in C.No 719/LHR/IT(594)/1258/2010, recommendations had been made against the faulty tax return for tax year 2010 placed on FBR's web portal for non-corporate taxpayers. The FTO deciding the complaint on 25.04.2011 had directed inter alia, for removal of defects in the return form placed on the web portal.

In the wake of aforementioned recommendations made by the FTO, Circular No 6 of 2009 was withdrawn abruptly with a resolve to implement minimum tax on services as originally enacted. One day after the order in C.No 1258/2010 was passed, Chief (ITP), Aftab Ahmad, through letter No 1(25)WHT/2009 dated 26.04.2011, issued the clarification "the matter has been examined again and it is ruled in supersession of earlier instructions issued through Circular No 6 of 2009 that the tax deducted on payments made for rendering or providing of services is to be treated as minimum tax.

However, on 31.10.2011, FBR issued SRO No 1003(I)/2011 to amend the Second Schedule to the Ordinance, inserting Clause 79 to take companies rendering services out of the Minimum Tax Regime. The sequence of events narrated above makes it evident that the resurrection of Circular No 6 of 2009 through SRO No 1003(I)/2011 was a calculated move by certain elements within the FBR. Its purpose was also to shield those responsible for losses to revenue due to illegal issuance of exemption certificates in the past.

The changes in Section 153 of the Ordinance brought about through Finance Act 2009 regarding levy of minimum tax are applicable to all categories of taxpayers: individuals, AOPs and companies. This has been affirmed by FBR in C.No 1(6)WHT/2009 dated 04-07-2009 and Circular No 3 of 2009 dated 17.07.2009. It was also evident when SRO No 1158 (1)/2010 dated 30.12.2010 and SRO No 850(I)/2011 dated 17.09.2011 were issued to notify electronic returns of Income for Tax Years 2010 and 2011 in which the calculation of minimum tax u/s 153(1)(b) @ 6 percent of services sector receipts was provided for. There were problems with the actual calculations when the data was input but that was a programming defect. The issue was also examined by the Federal Tax Ombudsman under Own Motion intervention in C.No 627/LHR/IT(483)/1310/2011. Later, through Finance Act 2011, Section 153 was re-cast so as to remove any confusion regarding its true import. FBR vide Circular No 7 of 2011 clarified "The provisions of section 153 of the Income Tax Ordinance, 2001 have been streamlined to provide clarity required due to numerous changes over the period of time. Only the existing provisions of this section have been re-aligned without changing the existing taxation regime under this section"

A cumulative reading of aforementioned circulars/SROs clarifies that while the taxation regime for Service Sector taxpayers had remained the same, only the statutory arrangement was changed to facilitate better comprehension of the provisions. SRO No 1003 issued by FBR on 31-10-2011 sought to undo minimum taxation on corporate service providers. This was against the intention of the Parliament when it enacted Finance Act 2009 and again when Section 153 was re-cast through Finance Act 2011. FBR does not have the authority to undo statutory enactments approved by the Parliament through SROs. The superior judiciary has declared such SROs/Circulars unlawful.

It is quite intriguing that SRO No 1003 dated 31.10.2011 was issued inserting Clause 79 in the Second Schedule, but no amendment in Section 153 was got approved from the Parliament through Finance Act 2011, Finance Act 2012 or Finance Act 2013. It is evident that the FBR acted beyond jurisdiction in exempting the corporate sector from minimum tax. The FBR's act of issuing Circular No 6/2009, and then inserting Clause 79 in the Second Schedule through an SRO being in conflict with the provisions of Section 153 of the Income Tax Ordinance 2001 was tantamount to maladministration. The FBR is not mandated to issue SROs/Circulars which contradict the statutory provisions of tax laws as held by the superior judiciary. Not bringing an amendment in the provisions of Section 153 before the Parliament and the insertion of Clause 79 in the Second Schedule thereby changing the spirit of taxation regime smacks of improper motives and inefficiency, incompetence and ineptitude on the part of relevant tax employees: FTO order added.

When contacted a Lahore based tax lawyer Waheed Shahzad Butt told this correspondent about the background of this unique case. The major service providers in Pakistan are corporate entities including cellular companies. Levy of Minimum Tax @ 6 percent of their gross receipts would yield a bonanza to the federal exchequer. But, practically the situation is not like this as was evident from the order of the FTO, he added. – *Courtesy Business Recorder*

Fiscal year 2013 tax collection: RTO Karachi registers 22 percent growth

Regional Tax Office-II (RTO) Karachi has collected Rs 52 billion in 2012-13 against Rs 42 billion during 2011-12, reflecting a handsome growth of 22 percent. Sources told here on Thursday that the performance of the RTO-II Karachi was remarkable during the tenure of Khawaja Tanveer Ahmad Chief Commissioner-IR, Regional Tax Office II, Karachi, who has been given new assignment as Member, (Internal Audit) Federal Board of Revenue (HQ), Islamabad. He has been elevated from the position of Chief Commissioner to FBR Member.

During the tenure of Khawaja Tanveer Ahmad, RTO-II managed to collect Rs 52 billion in 2012-13 as against the collection of Rs 42 billion in same period last fiscal year. This is the highest percentage growth by any RTO all over Pakistan. The record collection during 2012-13 has been made without taking a single penny in advance from registered persons.

The RTO of Khawaja Tanveer Ahmad also showed excellent performance in other areas of collection out of demands, audit, withholding taxes and expanding the tax-base. The revenue collection of Regional Tax Office-II, Karachi has been raised by 22 percent during 2012-13 when compared with collection during the same period for the last year. It may be mentioned here that revenue growth at national level is 5.2 percent. Target assigned to RTO-II, Karachi was at Rs 55 billion, therefore, RTO-II has been able to achieve 92 percent collection of the assigned target. Percentage increase over last year's collection is the highest amongst RTOs/LTUs.

The collection out of arrear/current demands upto June, 2013 has been raised by 95 percent to Rs 3.03 billion from Rs 1.55 billion during last year. During 2012-13, the current demand raised is 348 percent to Rs 7.93 billion in comparison of current demand raised at Rs 1.77 billion during the same period of the last year. In the field of monitoring of Withholding Taxes, RTO-II, Karachi through orders under section 161/205 of the Income Tax Ordinance 2001 and field audit , has raised demand to the tune of Rs 7.07 billion and has able to collect Rs 5.089 billion out of the demand raised. This is the highest percentage amongst the RTOs/LTUs.

Furthermore the RTO-II Karachi has sent fresh cases around 4,200 for issuance of new NTN for broadening of tax base. These cases were detected during external survey. The RTO has also launched drive for uplifting the revenue collection during the current financial year to minimise the gap between the collection and the target assigned. – *Courtesy Business Recorder*

Above Rs 400,000 salary: individuals also required to file wealth statements

The Federal Board of Revenue (FBR) has made it mandatory for the salaried individuals deriving salary income above Rs 400,000 to file a return of income along with wealth statement andwealth reconciliation statement. Explaining the salient features of the Finance Act, 2013, the FBR here on Friday issued income tax circular 6 of 2013.

The income tax circular said that the method of furnishing returns and other documents [Section 118] has been specified in the

Finance Act 2013. The changes have been made in Section 118 through Finance Act, 2013. Firstly, the concept of treatment of an 'employer's certificate or an Annual Statement of deduction of income tax from salary filed by the employer as a return on behalf of the taxpayer has been abolished to make it compulsory for the salaried individuals deriving salary income above Rs 400,000 to file a return of income along with wealth statement and wealth reconciliation statement.

Secondly, where salary income for the tax year is five hundred thousand rupees or more, the taxpayer is required to file return of income electronically in the prescribed form accompanied by the proof of deduction or payment of tax and wealth statement as required under section 116 along with wealth reconciliation statement.

Thirdly, the date of electronic filing of returns by salaried persons, and a statement required under sub-section (4) of section 115 by persons falling in PTR is 31st day of August next following the end of the tax year to which the statement or return relates.

Through Finance Act, 2013 every resident person being an individual or member of an AOP filing of return of income, or statement under sub-section (4) of section 115 shall also file wealth statement along with reconciliation of wealth statement. This mandatory filing of Wealth statement has been made effective from the Tax Year 2013 onward. Moreover where a person having furnished a wealth statement, intends to furnish a revised wealth statement such person shall also file the revised wealth reconciliation and the reasons for filing revised wealth statement, circular added. – *Courtesy Business Recorder*

Textile, leather made-ups: deduction rate of WHT will be one percent: FBR

The Federal Board of Revenue has provided a major relief of lower tax deduction rate for textile and articles thereof, carpets, leather and articles thereof including artificial leather footwear, surgical goods and sports goods. In this regard, the FBR has issued SRO.669(I)/2013 here on Friday.

Resultantly, the rate of deduction of withholding tax under clauses (a) and (b) of sub-section (i) of Section 153 of the Income Tax Ordinance 2001 shall be one percent on local sales, supplies and services provided or rendered to taxpayers falling in the following categories including textile and articles thereof; carpets; leather and articles thereof including artificial leather footwear; surgical goods; and sports goods, sources added.

Following is the text of the SRO.669(I)/2013 issued here on Friday: In exercise of powers conferred by sub-section (2) of section 53 of the Income Tax Ordinance 2001, the Federal Government is pleased to direct that the following further amendment shall be made in the Second Schedule to the said Ordinance, namely: In the aforesaid Schedule, in Part-IV, in clause (45A), in sub-clause (a), (i) after the words, "the" occurring for the second time, the words, "taxpayers falling in the" shall be inserted; and (ii) the words "of sales tax zero-rated taxpayers" shall be omitted, notification added. – *Courtesy Business Recorder*

Container scam: Clearing agent arrested by NAB

National Accountability Bureau (NAB), Sindh, on Friday claimed to have arrested a customs clearing agent for his alleged involvement in Isaf container scam. According to NAB, the Accountability Court has issued arrest warrants of accused Muhammad Imran son of Saif-ur-Rehman, proprietor of M/s Saif-ur-Rehman & sons, in Isaf container scam. It said that Imran, who was declared an absconder, had now been arrested by NAB, Sindh.

Meanwhile, sources said that NAB had issued 'Call up' notices to around 200 customs clearing agents on the directives of Supreme Court (SC) in Nato/Isaf containers case. They said Chief Justice Iftikhar Muhammad Chaudhry had expressed dissatisfaction over NAB's performance, saying that the Bureau had misconstrued the earlier order and had initiated a fresh investigation into the scam instead of moving references against the accused persons.

The apex court had also directed the NAB to finalise references against the accused 'instead of sitting over them'. Therefore, NAB issued 'Call up' notices against around 200 clearing agents under section 19 read with 27 of National Accountability Ordinance, 1999 to ask them to appear before the investigation team to record their plea. Now, the NAB Sindh, has showed further progress by arresting one of the accused persons in Isaf container scam. When contacted, Arshad Jamal, Senior Vice President, All Pakistan Customs Agents Association (APCAA), said, "The investigation agency should ensure a fair trial in this scam to take responsible persons to task". – *Courtesy Business Recorder*

Money Market/Income Funds: dividend taxable @ 25 percent: FBR

The dividend received from Money Market Funds and Income Funds is taxable at the rate of 25 percent for Tax Year 2013 and onwards. The FBR on Friday issued a circular to explain the amendment made in the Seventh Schedule of the Income Tax Ordinance 2001 through the Finance Act 2013. The FBR said the rate of initial allowance under section 23 for plant and machinery has been reduced to 25 percent from 50 percent under Finance Act 2013.

In Second Schedule to the Income Tax Ordinance, 2001 some of the amendments made are as follows: In Part-I sub-clause (i) of clause (53A) has been deleted. Now the perquisite of free or concessional passage provided by airlines and transporters to its employee or to the members of employees household and dependants is to be included in taxable income of the employee. The market value of the fare at the relevant time shall be added to the income of the employee in case of free passage and the difference of the market value and the amount paid by the employee in case of concessional passage, circular said.

In Part-I a new clause (58A) has been added providing that income of a university or other educational institution being run by a non-profit organisation as defined in sub-section (36) of section 2 of the Income Tax Ordinance, 2001 existing solely for educational purposes and not for purposes of profit shall be exempt.

In Part-III in clause (1) a proviso has been added that the reduction in tax liability is available @ 2.5 percent on so much amount of the flying allowance or the submarine allowance as does not exceed an amount equal to the basic salary received by pilots, flight engineers, navigators of Pakistan Armed Forces, Pakistani Airlines or Civil Aviation Authority, Junior Commissioned Officers or other ranks of Pakistan Armed Forces, and submarine allowance by the officers of the Pakistan Navy, it said.

In Part-III in clause (2) reduction in tax liability of the tax payable on income from salary equal to 75 percent has been reduced to 40 percent in the case of: a full time teacher employed in a non profit educational institution duly recognised by Higher Education Commission, a Board of Education or a University recognised by the Higher Education Commission, including government training institutions.

In Part-III in clause (2) reduction in tax liability of the tax payable on income from salary equal to 75 percent has been reduced to 40 percent in the case of: a full time researcher employed in a research institution duly recognised by Higher Education Commission, a Board of Education or a University recognised by the Higher Education Commission, including government research institution.

It is further clarified that a full time teacher means a person employed purely for teaching and not performing any administrative or managerial jobs eg principals, headmasters, directors, vice-chancellors, chairmen, controllers etc. Similarly a full time researcher means a person purely employed for research job only in a research institution and such institution is purely performing research activities, the FBR said.

In Part-III in clause (59) the exemption from the applicability of Provisions of section 151 regarding withholding tax on profit on debt in the case of any resident individual on Defence Savings Certificates, Special Savings Certificates, Savings Accounts or Post Office Savings Accounts or Term Finance Certificates (TFCs), where such deposit does not exceed Rs 150,000 has been withdrawn. Now there is no threshold of invested amount for the purposes of withholding.

In Part-III, a new clause namely (72A) has been added providing that the provisions of clause (I) of section 21, sections 113 and 152 shall not apply in case of a Hajj Group Operator in respect of Hajj operations provided that the tax has been paid at the rate of Rs 3, 500 per Hajji for the tax year 2013 and Rs 5, 000 per Hajji for the tax year 2014 in respect of income from Hajj operations, the FBR added. – *Courtesy Business Recorder*

Suspicious transactions: banks required to provide information to FBR

Banks would provide Federal Board of Revenue a copy of each Currency Transactions Report and Suspicious Transactions Report generated and submitted by it to the Financial Monitoring Unit under the Anti-Money Laundering Act, 2010. The FBR on Friday explained in detail the ‘furnishing of information by banks (section 165A]’ through an income tax circular.

As per circular, through Finance Act, 2013 a new section 165A has been introduced. As per the said provision, every banking company shall make arrangements to provide to the Board in the prescribed form and manner:- Online access to its central database containing details of its account holders and all transactions made in their accounts; a list containing particulars of deposits aggregating rupees one million or more made during the preceding calendar month; a list of payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to rupees one hundred thousand or more during the preceding calendar month; a consolidated list of loans written off exceeding rupees one million during a calendar year; and a copy of each Currency Transactions Report and Suspicious Transactions Report generated and submitted by it to the Financial Monitoring Unit under the Anti-Money Laundering Act, 2010 (VII of 2010).

Each banking company shall also make arrangements to nominate a senior officer at the head office to co-ordinate with the Board for provision of any information and document in addition to those listed in sub-section (1), as may be required by the Board. The banking companies and their officers shall not be liable to any civil, criminal or disciplinary proceedings against them for furnishing information required under this Ordinance. Subject to section 216, all information received under this section shall be used only for tax purposes and kept confidential, the FBR added. – *Courtesy Business Recorder*

Sindh-based car makers: who's legally empowered to collect franchise fee?

An issue has been raised whether Punjab Revenue Authority (PRA) is legally empowered to collect "Franchise Fee" from Sindh-based manufacturers of motor vehicles, who have already paid such fee to Sindh Revenue Board (SRB).

Sources told here on Friday that the Punjab Revenue Authority(PRA) has added "Franchise Service" in the Second Schedule to the Punjab Sales Tax on Services Act, 2012 through a notification dated October 06 2012; thereafter PRA issued Circular No 02 of 2013 wherein the "Assessment and Payment of Punjab Sales Tax on "Franchise Services" has been explained.

The PRA has issued notice to manufacturers of motor vehicles based in the Province of Sindh to pay the "Franchise Fee" to PRA on the basis of Sales of motor vehicles made in the Province of Punjab or else they would recover the same on the proportionate basis (population base of 58 percent).

Sources said that the manufacturers of the cars explained to PRA that the "Franchise Fee" was being paid to Sindh Revenue Board as the manufacturing activity was being done in the Province of Sindh and as such the Franchise fee is being paid on account of manufacturing activity being undertaken in the Sindh; therefore, the same cannot be paid in Punjab on the basis of Population. The PRA issued recovery notices which were challenged by the manufactures before the Lahore High Court in Constitutional Jurisdiction.

The matter was listed for hearing before Justice Syed Mansoor Ali Shah and after hearing the parties the operation of the notices were suspended. It was argued by the Counsel for the manufacturers that they have entered into Technical Assistance Agreement with principles in Japan. It is submitted that the said Agreement was entered between the parties in Sindh and the manufacturing of the cars also takes place in Sindh.

It was further argued that the grievance against PRA arises out of Circular No 02/2013 dated March 8, 2013 and the Show Cause Notice dated June 14, 2013 issued by the tax department.

It was submitted that the "Franchise Services" of the petitioners arising out of the Technical Assistance Agreement have been subjected to tax under the Punjab Sales Tax on Services Act, 2012 on the ground that the cars manufactured by the petitioners are also sold in Punjab and as the petitioners receives payments against the sale of these cars from Punjab the said amount can be taxed as franchise service under the Act. It is contented that the sale of the cars through independent dealership in Punjab has no co-relationship with the alleged Franchise Agreement entered into between the car manufacturers and their Principles in Japan.

It was further argued that if at all for the sake of arguments the Technical Assistance Agreement amounts to Franchise Agreement, the services are being rendered in Sindh and not in Punjab, hence, PRA has no jurisdiction to issue the impugned Circular and the Show Cause Notice, sources added. – *Courtesy Business Recorder*

FBR expands scope of company's definition

The Federal Board of Revenue (FBR) has expanded the scope of definition of company by including co-operative society, finance society or any other society; non-profit organisation; trust, an entity or a body of persons established or constituted by or under any law in force for the time being.

The FBR's income tax circular on Friday elaborated an amendment made through Finance Act, 2013 to enlarge the scope of a company's definition. Now as per Income Tax Ordinance, 2001 a company includes: A co-operative society, a finance society or any other society; a non-profit organisation; a trust, an entity or a body of persons established or constituted by or under any law in force for the time being. Now the provisions of the Income Tax Ordinance, 2001 applicable to companies shall also apply on the above mentioned classes of co-operative societies and non-profit organisations too.

Through Finance Act, 2013 a proviso has been added to sub-section (1) of Section 111 of the Income Tax Ordinance, 2001 providing that where a taxpayer explains the nature and source of the amount credited or the investment made, money or valuable article owned or funds from which the expenditure was made, by way of agricultural income, such explanation shall be accepted only to the extent of agricultural income worked back on the basis of agricultural income tax paid subject to furnishing of proof of payment of agriculture tax under the relevant provincial law.

The rate of Minimum tax under section 113 on the income of certain persons has been changed from 0.5percent to 1 percent. Prior to Finance Act, 2013 carrying forward of excess amount of tax paid than the actual tax payable under section 113 was available to companies only. Now this facility has been extended to individuals and association of persons and they can also carry forward the excess amount of tax paid as per provisions of section 113.

The time limit of sixty days for provisional assessment to attain finality as the final assessment order from the date of service of order of provisional assessment and the limitation of sixty days in the subsequent provisos to sub-section (2) of section 122C has been reduced to forty five days through Finance Act, 2013, FBR added. – *Courtesy Business Recorder*

C.No.3(7)ST-L&P/2006(Pt)-94374-R Islamabad, the 12th July, 2013

SALES TAX GENERAL ORDER NO. 30/2013

Subject: **Amendment in STGO 28 of 2013 dated 05-07-2013.**

In the aforesaid General Order, in the subject, the word "July" shall be read as "June".

(Fahad Ali Chaudhary)
Secretary (ST&FE-L&P)

C.No.1(5)AS&C/2012 Islamabad, the 15th July, 2013

CUSTOMS GENERAL ORDER NO. 06/2013

Subject: **Amendment of Customs General Order No.12 of 2002 dated 15.06.2002.**

The Federal Board of Revenue is pleased to direct that following further amendment shall be made in its Customs General Order No.12 of 2002, dated the 15th June, 2002, namely:–

In the aforesaid order, in paragraph 34(a)(I), after the world* "pollution", the words and commas "Opium shall, however, in the first instance be offered to the Government Opium Factory, Lahore" shall be inserted.

No.SRB-3-4/10/2013, Karachi, the 15th July, 2013.– In exercise of the powers conferred by sub-section (1) of section 34 of the Sindh Sales Tax on Services Act, 2011 (Sindh Act No. XII of 2011), read with section 35 thereof, the Board is pleased to direct that the officers of the SRB, as specified in column (2) of the Table below, shall exercise the powers and perform the functions of a Commissioner under the Act and the rules, notifications and orders issued thereunder in the matters and jurisdiction specified in column (4) of the Table below:-

TABLE

S.No.	Officer of the SRB	SST Unit	FUNCTIONS & JURISDICTION
(1)	(2)	(3)	(4)
1	**Commissioner-I**	AC-1	Telecom Services
			Security Alarm Services
			Security Agency

* It should have been "word".

			Tracking Services
		AC-2	Banks
			Insurance & Re-insurance
			Surveyors
		AC-3	Investment Banks
			NBFC
			Investment Advisory
			Leasing
			Modaraba and Musharika
			Foreign Exchange Dealers
			Stock Brokers and Commodity Brokers
			Money Exchanger
			Fund/Asset Management
		AC-4	Advertisements on TV, Cable TV, CCTV, Radio, billboard, Poles, Web/Internet, and other advertisements
			Advertising Agency
			Sponsorship Services
			Market Research Agency
			Business Support Services
		AC-5	Franchise
		AC-6	Hotels, Motels & Guest Houses
			Restaurants
			Caterers
			Marriage Hall & Lawns
			Clubs
			Race clubs
		AC-7	Toll Manufacturing
			Auto-workshops & Authorized Service Stations
			Workshops for machinery
		AC-8	Legal Practitioners, Accountants & Auditors, Tax Consultants
			Management Consultants
			Software or IT-based System Development Consultants

2	**Commissioner-II**	AC-9	Property Developers & Promoters
			Construction Services
			Contractors of Buildings
			Architects or Town Planners
		AC-10	Contract Execution
			Courier Services
		AC-11	Stevedores
			Shipping Agents
			Ship Management Services
			Ship Chandlers
		AC-12	Terminal Operators
			Airport Services
			Airport Operators
		AC-13	Freight Forwarding Agents
			Public Bonded Warehouses
			Custom Agents
		AC-14	Event Management Services
			Outdoor Photographers & Videographers
			Exhibition Services
			Labour and Manpower supply
		AC-15	Beauty Parlours, Beauty Clinics, Sliming Clinics or Centers and others
			Health Care Centers, Gyms, Physical Fitness Centers, Body Massage Centres, Pedicure Centres
		AC-16	Services provided or rendered in the Civil Division of Hyderabad and Mirpur Khas in Sindh Province.
		AC-17	Services provided or rendered in the Civil Divisions of Sukkur and Larkana in Sindh Province.
3	**Commissioner (Appeals)**	AC-18	Appeals under sections 57, 58, 59 & 64 of the Act.
4	**Deputy Commissioner (Coordination)**	AC-19	Registration/Enrollment and Call Centre
		AC-20	Survey and Intelligence
		AC-21	Withholding Tax

2. In case where a service provider falls under the jurisdiction of the officers SRB of S.Nos. 1 and 2, both, as specified in column (1) of the

Table above, the Commissioner-I shall exercise the powers and perform the functions of a Commissioner on all the services provided or rendered by such a service provider.

3. This issues in supersession of Notification No. SRB-3-4/6/2011 dated 24th September, 2011 and No. SRB-3-4/6/2012 dated 20th April, 2012.

F.No.1(6)Jurisdiction/2013/87604-R

Islamabad, the 28th June, 2013

ORDER

In exercise of the powers conferred by Sub-Section (1) of Section 209 of the Income Tax Ordinance, 2001, Sections 30 and 31 of the Sales Tax Act, 1990 and Section 29 of the Federal Excise Act, 2005, Federal Board of Revenue is pleased to transfer the jurisdiction over the case of M/s Atlaf Power Limited, NTN 2878470-7, STRN 1700271600364, from Chief Commissioner IR, RTO, Karachi to Chief Commissioner Inland Revenue, RTO, Lahore.

2. This order shall take effect from 1st July, 2013.

F.No.1(6)Jurisdiction/2013/88803-R

Islamabad, the 30th June, 2013

ORDER

In exercise of the powers conferred by Sub-Section (1) of Section 209 of the Income Tax Ordinance, 2001, Sections 30 and 31 of the Sales Tax Act, 1990 and Section 29 of the Federal Excise Act, 2005, Federal Board of Revenue is pleased to transfer the jurisdiction over the case of M/s Saleem Fabrics, NTN 2983862-2, STRN 1750521000694, from Chief Commissioner IR, RTO, Karachi to Chief Commissioner Inland Revenue, RTO, Lahore.

2. This order shall take effect from 1st July, 2013.

C.No.4(6)ST-L&P/2011/96244-R Islamabad, the 17th July, 2013

SALES TAX GENERAL ORDER NO. *30/2013

Subject: **Amendment in STGO 09/2007 dated 13-09-2007 –allowing facility of zero-rating on supply of electricity.**

In exercise of powers conferred by clause (d) of section 4 of the Sales Tax Act, 1990, the Federal Board of Revenue is pleased to make the

* Sales Tax General Order of the same number has already been issued on 17-07-2013.

following further amendments in its Sales Tax General Order No. 09 of 2007 dated 13th September, 2007, namely:–

In the aforesaid General Order, in the Table, after serial number 2688 in column (1) and the entries relating thereto in columns (2), (3) & (4), the following new serial number and the entries relating thereto shall be **added,** namely:–

S.#	**Name of Unit**	**Registration No.**	**Consumer No.**
2689	M/S Ahmad Jamal Textile Mills	0891999131073	24131535700124R

C.No.4(11)ST-L&P/2011/96247-R Islamabad, the 17th July, 2013

SALES TAX GENERAL ORDER NO. 31/2013

Subject: **Amendment in STGO 17/2007 dated 13-09-2007 –allowing facility of zero-rating on supply of gas.**

In exercise of powers conferred by clause (d) of section 4 of the Sales Tax Act, 1990, the Federal Board of Revenue is pleased to make the following further amendments in its Sales Tax General Order No. 17 of 2007 dated 13th September, 2007, namely:–

In the aforesaid General Order, in the Table, after serial number 1108 in column (1) and the entries relating thereto in columns (2), (3) & (4), the following new serial number and the entries relating thereto shall be **added,** namely:–

S.#	**Name of Unit**	**Registration No.**	**Consumer No.**
1109	M/S Ahmad Jamal Textile Mills	0891999131073	20245900004

S.R.O. 670(I)/2013, Islamabad, the 18th July, 2013.– In exercise of powers conferred by clause (c) of section 4 of the Sales Tax Act, 1990, the Federal Government is pleased to direct that the import and supply of goods mentioned in column (2) of the Table below and the raw materials, packing materials, sub-components, components, sub-assemblies and assemblies imported or purchased locally for the manufacture of the said goods shall be charged to sales tax at the rate of zero percent subject to the conditions specified below the Table, namely:–

TABLE

S. No.	Description of goods	PCT Heading
(1)	**(2)**	**(3)**
1.	Colors in sets	3213.1000
2.	Writing, drawing and marking inks	3215.9010 and 3215.9090
3.	Erasers	4016.9210 and 4016.9290
4.	Exercise books	4820.2000
5.	Pencils sharpener	8214.1000
6.	Geometry boxes	9017.2000
7.	Pens, ball pens, markers and porous tipped pens	96.08
8.	Pencils including color pencils	96.09
9.	Milk including flavored milk	04.01 and 0402.9900
10.	Yogurt	0403.1000
11.	Cheese	0406.1010
12.	Butter	0405.1000
13.	Cream	04.01 and 04.02
14.	Desi ghee	0405.9000
15.	Whey	04.04
16.	Milk and cream, concentrated and added sugar or other sweetening matter	0402.1000
17.	Preparations for infant use put up for retail sale	1901.1000
18.	Fat filled milk	1901.9090
19.	Bicycles	87.12

CONDITIONS

(i) The zero-rating under this notification shall be available subject to determination of input/output ratios by the Input-Output Co-efficient Organization (hereinafter referred to as "IOCO"), if not already determined under an earlier concessionary notification issued for such goods:

Provided that this condition shall not be applicable in case of import of finished goods and their supply in same state; and

(ii) For import and local procurement of raw materials, packing materials, subcomponents, components, sub-assemblies and assemblies for the manufacture of the goods specified in column

(2) of the said Table, the following conditions and procedures shall be followed, namely:–

(a) a sales tax registered manufacturer of the goods specified in the said Table having suitable in-house facilities shall submit, in the format prescribed in Annex-A to this notification, the complete list of his annual requirement of the inputs he intends to import or purchase locally for the manufacture of goods specified in column (2) of the said Table, to the Commissioner Inland Revenue having jurisdiction;

(b) the Commissioner shall approve the declaration of input-output ratio of the manufacturer without physical verification in case the declared input-output ratio and input requirement is in accordance with the prevailing industry average or the inputs consumption pattern of the applicant manufacturer or as already determined by IOCO under an earlier notification issued for such goods, in the format of approval prescribed as Annex-B to this notification;

(c) in case the Commissioner is not satisfied with the declared input-output ratios of the goods to be manufactured because of their being prima facie not in accordance with the prevalent average of the relevant industry or in case the input-output ratios are not already determined by IOCO, he may, after allowing a six months provisional quantity, make a reference to the IOCO for final determination thereof. On receipt of report from IOCO the Commissioner shall then determine the final annual quantitative entitlement of inputs and grant final approval for zero-rated purchases or imports. In case of non-receipt of report from IOCO within four months of the application made by the manufacturer, the Commissioner shall provisionally allow another six months quantity to the applicant manufacturer;

(d) in case of goods to be imported by the registered manufacturer, the authorized officer of Inland Revenue shall furnish all relevant information online to Customs Computerized System as per Annex-C to this notification against a specific user ID and password obtained under section 155D of the Customs Act, 1969 (IV of 1969);

(e) where a registered person supplies goods to a registered manufacturer of goods specified in the said Table, he shall issue a zero-rated invoice under section 23 of the Sales Tax Act, 1990 mentioning the name, sales tax registration and approval number of the buyer;

(f) the registered manufacturer of goods specified in the said Table will be entitled to claim refund of input tax paid on utilities and such inputs, which are purchased by him after payment of sales tax, in terms of section 10 of the Sales Tax Act, 1990 read with the relevant provision of the sales tax rules, 2006;

(g) the registered manufacturer shall maintain complete records of the inputs imported or locally purchased and the goods manufactured therefrom;

(h) the input goods allowed under clause (ii) shall be consumed within twelve months of purchase or import thereof, where the consumption period shall start from the date of purchase or import of input goods. However, the input goods shall be purchased or imported before the expiry date of the approval.

(i) the manufacturer shall communicate to the concerned Commissioner of Inland Revenue in writing about the consumption of imported or locally procured inputs within ninety days of their consumption. The indemnity bond shall be released on receipt of written confirmation regarding consumption of goods by the manufacturer.

(j) in case the input goods are not consumed within the period allowed in the approval, the manufacturer shall pay the amount of sales tax involved or obtain extension from the Commissioner of Inland Revenue under intimation to the Collector of Customs;

(k) the concerned Commissioner Inland Revenue, whenever he deems necessary but not more than once in a calendar year, may get the records of the manufacturer audited. In case it is found that the inputs have not been properly accounted for or consumed in the manufacture and supply of goods as prescribed, the Commissioner may initiate proceedings for recovery of the sales tax involved on the unaccounted inputs besides penal action under the relevant provisions of the Sales Tax Act, 1990; and

(l) under circumstances of exceptional nature and for reasons to be recorded in writing, the concerned Commissioner may relax any of the conditions, if he is satisfied that such condition is detrimental to the bona fide purposes of manufacturer's business, subject to such surety or guarantee he may deem appropriate to secure the sales tax and to ensure proper accountal and utilization of the imported or locally procured goods.

Annex – A
[See condition (i)]

Name of the Manufacturer: ________________________

Sales Tax Registration No: ________________________

N.T.N. No: ____

Address: ____

Application date: __________________________________

S. No.	Description of goods to be manufactured	PCT Heading	Description of raw materials, components, sub-components, assemblies, sub-assemblies and packing materials	PCT Heading	Input-output ratio	Quantity
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Authorized Signature: _________________

Annex-B
[See condition (ii)]

Approval No. ___________________________________

Name of the Manufacturer: ______________________

Sales Tax Registration No: ______________________

N.T.N. No: _____________________________________

Expiry date of approval: _________________________

S. No.	Description of goods to be manufactured	PCT Heading	Description of raw materials, components, sub-components, assemblies, sub-assemblies and packing materials	PCT Heading	Quantity allowed
(1)	(2)	(3)	(4)	(5)	(6)

Authorized Signature of Sales Tax Officer: _________________

Annex-C
[See condition (iii)]

Name of the Manufacturer: ______________________

Sales Tax Registration No: ______________________

N.T.N. No: ____________________________________

Address: ______________________________________

S. No.	Description of input goods to be imported	PCT Heading	Quantity	Value
(1)	(2)	(3)	(4)	(5)

Authorized Signature: ________________

No.PRA/Chambers.05/12 Islamabad, the 15th July, 2013

To,

MR. FAROOQ IFTIKHAR
President,
Lahore Chamber of Commerce & Industry,
11-Share-e-Aiwan-e-Tijarat,
Lahore.

Subject: **Levy of Sales Tax on Services provided in respect of manufacturing or processing of toll or job basis (against processing on conversion charges).**

I am directed to refer to your letter No.R&D/F&T/2013/1389 dated 11-07-2013 on the above subject and to state that within the framework of 18th Constitutional Amendment and 7th NFC Award, the right of the provinces to collect sales tax on services at their own level has been unambiguously recognized. Thus, the Federal government/FBR is not empowered to collect sales tax or any other indirect tax such as Federal excise duty on services which have been subjected to sales tax collection at provincial level.

2. With effect form 01.07.2013, in case of the services provided in respect of manufacturing or processing of toll on job basis (against processing on conversion charges) classifiable under heading 9866.0000, Punjab has levied sales tax at the rate of 16% (upward revision of rate as and if made by the Punjab government will be displayer on PRA's website). The Federal Board of Revenue is therefore, no more competent or authorized to collect sales tax on such services notwithstanding the definition of manufacture of manufacturer under section 2(16) and (17) of

the Sales Tax Act, 1990 or any other order or notification, clarification or instructions issued by the Federal government/FBR.

3. It may however be added that, the registered persons who are paying Federal sales tax on goods are entitled to input tax adjustment (refund in case of zero-rated supplies) of the Punjab sales tax. The Chamber is therefore requested to kindly advise its members accordingly. Should there be any instance of demanding Federal sales tax on such services by any field formation of FBR, PRA may be informed instantly so that it may get the issue resolved with FBR without any undue inconvenience to the concerned taxpayers.

BABAR NAWAZ RAJA
Additional Commissioner (HQ)
042-99205487

No.PRA/Orders.01/2013, Lahore, the 18th July, 2013.– In exercise of the powers conferred under section 84 of the Punjab Sales Tax Act, 2012, the Punjab Revenue Authority is pleased to extend the date of payment of Punjab sales tax and filing of return up to 25th July, 2013 for the tax period of June 2013 for all registered persons including withholding agents.
