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Huzaima & Ikram
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This issue contains:

Kind regards

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Finance Act 2012
Where is Parliament?

by
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The adoption of Finance Bill 2012 on 14 June 2012, with a number of amendments proposed on the last day, was a disgrace for the National Assembly. There was no debate at all on tax measures and the proceedings were wound up in utter haste. This shows apathy of the elected representatives (sic) towards important constitutional obligations under Article 73 and 82 of the Constitution Islamic Republic. Every year, their attitude confirms that they are only interested in safeguarding their privileges, untaxed/undeclared assets, besides obtaining more and more perquisites and benefits. The ruling *ashrafiya*—mighty military-civil complex, corrupt politicians and unscrupulous businessmen—gets what it wants from members of parliament in all matters. Indifference shown by the Treasury and Opposition benches during budget session amounts to open defiance of the mandate of the masses of this country, that voted them into power with the hope that they would do something for their socio-economic uplifting or at least provide them basic essential services—housing, transport, education and health, to say the least.

As was in the past, worthy members of the National Assembly (MNAs) did not assess nor even bothered to ponder about the impact of regressive taxation on the ailing economy and its devastating burden on the poor—out of total revenue 78% comes from indirect taxes and tax-to-GDP ratio is one of the lowest in the world.

Earlier, the excuse was that "we are not allowed to perform our constitutional duties under the umbrella of a military dictator". Now, in the absence of this pretext, it is obvious that fault lies somewhere else. Time and again, we have been emphasizing that democracy is not electioneering *per se*. Establishment of a responsible government caring for the needs of its people is a prerequisite for true democratic dispensation. This is only possible if the Parliament performs its Constitutional role, implements flawless process of accountability and ensures good governance. Constitutionally speaking, the Cabinet is answerable to the Parliament, but the truth is that MNAs run after ministers for personal favours and gains.

Parliament is subservient to the vested interest primarily, for the reason that the strongest man of the ruling party is the Head of State—dictating everybody inside or outside the government. This fatal combination of powers distorts the concept of democracy—absolute power, undoubtedly, corrupts absolutely. The model near home—India—proves the point. Sonia Gandhi as head of the party does not hold any post in the government. She is thus in a position to enforce accountability of those in the government—party policies are her domain and not that of Manmohan Singh. In Pakistan, the *real* controlling authority is just one man having absolute say in all governmental and party matters. This is the real malaise of non-functioning of democracy in its true sense.

The Government was adamant to pass the Finance Bill 2012 without any evocative debate and Opposition was not at all interested to suggest any changes. Some amendments suggested by Senate were incorporated but without any debate. The Parliament once again proved that it is a mere rubber stamp as far as formulation of tax policy is concerned. The Finance Bill as usual was the handiwork of the wizards sitting in the Finance Ministry and Federal Board of Revenue (FBR).

Due to non-participation of public representatives in budget-making, financial managers and tax collectors have persistently failed to overcome fiscal deficit and remove fiscal imbalances as their tax policies are based narrowly on collecting taxes at source, without bringing the mighty sections of society within the tax net or collecting what is actually due from them.

They are interested only in number games and are bent upon collecting taxes where they are not due: there is a direct link between growing poverty in Pakistan and distortion in the tax base since 1991, when major tax burden was shifted on consumers by introduction of massive presumptive taxes in income tax law. Lack of judicious balance between direct and indirect taxes and levy of regressive taxes in the garb of income tax has pushed an overwhelming majority of Pakistanis either towards or below the poverty line—the number is now over 60 million.

Reliance on indirect taxes that constitute 78% of total collection proves beyond any doubt that the tax system is directly contributing to poverty as people who possess enormous income and wealth are not being subjected to personal taxation in Pakistan. Thus, the very purpose of redistribution of wealth as the main object of taxation is being defeated and nullified. The present tax policies are detrimental for economy, social justice, business and industry. Those who possess more economic power (income and wealth) should contribute more to the public exchequer and vice versa. The ability-to-pay is regarded as the most equitable and just method of taxation and emphasized upon primarily for its redistributive role. In Pakistan, our rulers have completely deviated from this principle, which is in fact, a constitutional obligation of the government.

The common man is subjected to exorbitant sales tax and Federal Excise Duty [FED] of 16% to 19.5% (tax incidence is 35% on finished imported goods after applicable customs duty, sales tax, federal excise, mandatory value addition and income tax) on essential commodities [even salt sold under brand names is subjected to 16% sales tax] but the mighty sections of society such as big industrialists, landed classes, generals and bureaucrats are shamelessly amassing more and more wealth without paying any income tax. It is tragic that in a country where billions of rupees are concentrated in a few hands, tax-to-GDP ratio is pathetically low [just 9%] and the Government is least bothered to tax undocumented economy and *benami* (name-lender) transactions. The mighty sections of society are engaged in these transactions while rulers of the day getting due share from them, have no inclination to tax them.

Unfair taxation resulting into inequitable distribution of resources is the root cause of our multiple socio-economic ills. State policies induce massive tax evasion (section 111(4) of the Income Tax Ordinance, 2001 is a permanent tool for whitening of untaxed money). Pakistan, for the last decade has been witnessing below 10 percent tax-to-GDP ratio, whereas in our region Sri Lanka has tax-to-GDP ratio of 17 percent in 2011. After 10 years of World Bank-sponsored tax reforms, we have ended up with a monstrous informal economy and rampant corruption in tax machinery.

FBR as it exists today is incapable of exploiting real tax potential of nearly Rs. 7.5 trillion. By collecting just Rs. 1930-1950 billon at the end this fiscal year, they are claiming to have achieved wonders and created record! Let us examine some facts and figures: if we have 10 million individuals having taxable income of Rs 1.5 million (this is a very conservative estimate), the total income tax collection at the current rate from them should have been Rs 3750 billion. If we add income tax collected from corporate bodies, other non-individual taxpayers and individuals having income between Rs 400,000 to Rs 100,000, the gross figure would be nearly Rs 5000 billion. FBR collected only Rs. 520 billion as income tax during fiscal year 2009-10 and figure for this year would be around Rs 650 billion. This shows a whopping tax gap of Rs. 4350 billion.

Similarly, due to rampant corruption in sales tax, federal excise and custom duties, the total collection is only 20 percent of actual potential. In fiscal year 2009-10, FBR collected Rs 516 billion under the head sales tax, Rs 16 billion under federal excise duty and Rs. 152 billion under custom duties. Total indirect collection of Rs 694 was pathetically low. It should have been at least Rs 2500 billion. If tax gap is bridged, the total revenue collection of Pakistan would be Rs 7500 billion (Rs 5000 billion direct taxes and Rs 2500 billion indirect taxes). This would change the entire fiscal scenario. We would have enough money for development and public welfare—government would retire debts in a few years and we can easily become a self-reliant nation free from political subjugation.

However, this dream for Pakistan can never be realized unless the mighty sections of society are taxed, tax policy is used as tool for industrialization—taxing the unproductive sector to divert money to productive sectors—and redistributive charter of tax system is ensured—taxing the rich for the benefit of the poor. At present, we are taxing the poor for the benefit of the rich. This trend must be reversed before it is too late.

FBR persuading big firms to pay advance tax

The top brass of the Federal Board of Revenue (FBR) is directly interacting with big taxpayers to persuade them to pay liabilities of July-September 2012 before the end of the outgoing fiscal year to meet the shortfall in revenue collection target of Rs1,952 billion, official sources said on Tuesday.

Sources said that the Member Inland Revenue, FBR was in the city for the last two days and held meetings with several big corporate entities at Large Taxpayers Unit (LTU), Karachi to convince them regarding payment in advance, which is critical for revenue collection target.

"The Member is directly involved in revenue collection strategy after LTU, Karachi refused to demand taxpayers to pay next fiscal year's liabilities by June 30 in advance," said an official of FBR asking not to be named.

"The Chief Commissioner LTU Karachi refused because he was under investigation for influencing taxpayers in realising last fiscal year's revenue collection," the official added.

In FY11, the FBR had claimed of achieving the target of Rs1,588 billion but after reconciliation of figures the total collection stood at Rs1,558 billion – showing a shortfall of Rs30 billion.

LTU Karachi, a leading revenue collection arm of the FBR, earlier this month requested big corporate entities to pay their sales tax liabilities of June 2012 to be paid by July 15 but taxpayers regretted due to weak economic conditions of the country.

The government for FY12 fixed a revenue collection target of Rs1952 billion, which was 25.28 percent higher to the collection of previous fiscal year. However, in revenue collection strategy the FBR assigned a huge budget of Rs714 billion to LTU Karachi, which is 37 percent of total collection at national level and over 40 percent against the net collection of Rs504 billion in 2010-2011. The provisional revenue collection position by June 25 revealed that the FBR collected Rs1,805 billion and still needs Rs147 billion to achieve the target.

On the other hand, the LTU Karachi had collected Rs610 billion by the same date showing another Rs104 billion in remaining days.

The anticipated shortfall in the revenue collection motivated the Member IR to make the unit as a sub-office, another official of the FBR said.

During the meetings of Member IR and leading taxpayers the issues of taxpayers of discussed, including refunds.

Sources said that some taxpayers had agreed to pay the liabilities of the next fiscal year, however, they had demanded the FBR should issue post-dated (post June 30) refund cheques.

“The tax officials having jurisdictions also refused to give clearance for issuing refunds without scrutiny,” a source said.

A general impression in the LTU Karachi was witnessed that after failure in bringing new taxpayers into tax net and realising revenue the FBR squeezing the big corporate entities.

In desperation of achieving revenue collection target the FBR has announced several amnesties, including waiver of penalties, surcharges for the taxpayers to pay their liabilities in all taxes and recently the date was extended to June 30.

Tax experts said that missing this year’s revenue collection target would be a bad omen for the FBR because the government had already assigned a mammoth Rs2,381 billion for the upcoming fiscal year. – *Courtesy The News*

FBR seizes bank accounts of Gujranwala defaulters

The Federal Board of Revenue (FBR) has seized bank accounts of tax defaulters, especially in the steel sector to ensure recovery of outstanding amount.

The Regional Tax Office, Gujranwala launched an operation for tax recovery, extending 35 branches of various banks situated in Gujranwala.

The bank accounts of numerous defaulters were seized and the money was withdrawn from 86 accounts, amounting to millions of rupees, it said.

The Federal Board of Revenue has extended a special concession to the sector of steel melters to pay their taxes at reduced rate through an statutory regulatory order (SRO) dated May 23, however, a few taxpayers availed the facility.

Similarly, the concession extended through an SRO regarding waiver of default surcharge and penalties was not availed.

In this background, a large-scale operation was conducted against the defaulters extending almost all the major banks of the city for which 15 teams were made operational simultaneously.

When contacted, the commissioner Inland Revenue, Zone-I, Regional Tax Office, Gujranwala, expressed satisfaction on the successful operation of recovery and hinted at further operations to be conducted during the next week. He said that the department will undertake extreme measures of recovery, including arrests of the defaulters, if the dues are not paid voluntarily.

He expressed hope that as there are three more days for the deadline to avail the facility, more taxpayers will come forward to avail the scheme. – *Courtesy The News*

Pay SST on services before June 30: SRB

Sindh Revenue Board has asked service providers to pay Sindh Sales Tax on services before June 30, 2012. According to an announcement, Sindh Revenue Board (SRB) extended the amnesty to exempt whole of the amount of penalty and default surcharge payable by a person who has failed to pay any amount of Sindh Sales Tax for any reason or against whom an amount of Sindh Sales Tax is outstanding on account of any non-payment or short payment under the Sindh Sales Tax on Services Act, 2011.

Due to any audit observation or show cause notice or adjudication order or assessment order, or where tax was collected or was payable under erstwhile Sindh Sales Tax on Services Ordinance, 2000 (Sindh Ordinance No:VIII of 2000) but where tax was not deposited and is recoverable in terms of Section 83 of Sindh Sales Tax Act, 2011; provided that such amount or amounts are paid on or before 30th June, 2012 and may send such intimation to claim such benefit. – *Courtesy Business Recorder*

Revenue to be in range of Rs 1,850 billion to Rs 1,900 billion

The Federal Board of Revenue would be able to amass revenue in the range of Rs 1,850 billion and Rs 1,900 billion, taking into account current economic situation including power and gas load shedding having direct impact on business and trade. Sources told on Tuesday that it is virtually impossible to cross the psychological barrier of Rs 1,952 billion by the end of 2011-12.

So far, the government has not revised downward the revenue collection target of Rs 1,952 billion for 2011-12. In this connection, the government has not yet communicated to the FBR to slash the ambitious revenue target of Rs 1,952 billion for 2011-12. The original budgetary projection of Rs 1,952 billion remained intact without any downward revision in the assigned annual target for the outgoing fiscal year.

According to FBR estimates, the revenue collection would range between Rs 1,850 billion and Rs 1,900 billion, depending on the additional revenue being generated through the amnesty schemes and other areas of revenue collection. In May 2012, the FBR has been able to collect Rs 10 billion through amnesty schemes and more revenue is expected in coming days. If we cross Rs 1,900 billion by the end of June 2012, it would be an extraordinary achievement for the FBR. The required growth in revenue is much higher as compared to the current pace of revenue collection, sources said.

The FBR is monitoring the performance of the field formations particularly Large Taxpayer Units of Karachi, Lahore and Islamabad day and night as major chunk of revenue would come from these three units. In the remaining few days of June 2012, the FBR may be able to collect between Rs 1,850 billion and Rs 1,900 billion. The provisional revenue collection of the FBR is over and above Rs 1,800 billion during July 2011-June 25, 2012 (current fiscal year) against Rs 1,465 billion in the same period last fiscal year, reflecting a growth of over 23 percent. – *Courtesy Business Recorder*

Alleged tax evasion: FBR chief told to decide cases by June 30

The Lahore High Court here on Monday directed Chairman Federal Board of Revenue (FBR) and tax officials concerned to decide by June 30 the cases about alleged tax evasion by Bahria Town administration. The court also directed the FBR Chairman to furnish a report about the decisions on tax evasion before the High Court registrar.

The petitioner, a bar member Shahid Jami, contended that during audit of Bahria Town for tax year 2006 it was detected by the then officer that the purchase of land expenses claimed at Rs 9.2 billion were not supported with evidence which attracted tax liability of Rs 2.0 billion. He pointed out that the tax officer was transferred on bringing on record the said discrepancy but he refused the high-ups to drop the issue. Later, the case was assigned to a very junior officer who dropped the issue while concluding the audit. During the course of hearing FBR's counsel objected the jurisdiction of the court to hear the subject matter. However, the court rejected the argument and issued necessary directions to the FBR Chairman and concerned tax officers. – *Courtesy Business Recorder*

Six new Collectorates of Customs (Adjudication) to be set up

The Federal Board of Revenue has decided to set up six new Collectorates of Customs (Adjudication) shortly for exclusively dealing with all customs related disputes including violations of Customs Act 1969, imposition of fine/penalty on importers and adjudication for recovery of duties/taxes from importers, starting July 1, 2012.

Sources told here on Tuesday that the FBR will soon issue a notification to operationalise Collectorates of Customs (Adjudication) on national level from next fiscal year (2012-13). The purpose of establishing Collectorates of Customs (Adjudication) is to separate functions of executive from quasi-judicial fora. In this connection, the FBR will issue a notification to empower the adjudication authorities including Collector of Customs, Additional Collectors, Deputy Collectors, Assistant Collectors, Superintendents and Principal Appraisers to deal with the customs related matters for adjudication purposes. The FBR will also notify the powers and limitations of the adjudication officers, who would work under the new Collectorates of Customs (Adjudication) from July 1, 2012.

Details revealed that the FBR has chalked out a detailed strategy for the operationalisation of the Collectorates of Customs (Adjudication) from next fiscal (2012-13). The FBR has proposed amendments in section 179 of the Customs Act 1969 vide Finance Bill 2012, whereby the jurisdiction, scope and powers of the adjudication have been modified and expanded. Since powers of adjudication have been proposed to be entrusted to the Collectors of Customs (Adjudication) and as it has been decided to separate the functions of executive from quasi-judicial fora, the establishment of separate Collectorates of Customs (Adjudication) is demanded.

With the enactment of Finance Bill 2012 by the National Assembly, six Collectorates of Customs (Adjudication), for adjudication of cases relating to the areas falling in the jurisdiction of the Model Customs Collectorates, are being setup through a notification, which shall take effect from July 1, 2012. The draft notification is being sent to the Law and Justice Division for vetting, sources added.

According to the draft Finance Act 2012, amendment has been proposed in section 179 of the Customs Act 1969. In cases involving confiscation of goods or recovery of duty and other taxes not levied, short levied or erroneously refunded, imposition of penalty or any other contravention under Customs Act or the rules made thereunder, the jurisdiction and powers of the Officers of Customs has been specified under the amended section 179.

Collector of Customs would be empowered to deal with the cases involving unlimited amount of duties and other taxes involved in adjudication process; Additional Collectors would deal with cases involving amount not exceeding Rs 3 million; Deputy Collector would deal with cases involving duties and taxes up to Rs 1 million; Assistant Collectors would handle cases not exceeding Rs 500,000; Superintendent up to Rs 50,000 and Principal Appraiser would be empowered to deal the cases involving duties and other taxes up to Rs 50,000. – *Courtesy Business Recorder*

S.R.O. 772(I)/2012, Islamabad, the 26th June, 2012.– In exercise of the powers conferred by sub-section (2) of section 53 of the Income Tax Ordinance 2001 (XLIX of 2001), the Federal Government is pleased to direct that the following further amendment shall be made in the Second Schedule of the said Ordinance, namely:–

In the aforesaid Schedule, in Part-II, after clause (9A), the following new clause (9B) shall be inserted, namely:–

"(9B) Tax under section 148 shall be collected at the rate of 1% on import value of remeltable steel (PCT Heading 72.04) imported by an industrial undertaking for its own use."

C. No. 3(9)ST-L&P/2010 Islamabad, the 26th June, 2012

All Chief Commissioners,
LTUs/RTOs

Subject: **Extension of the date for payment of Taxes/Duty and filing of Sales Tax/Federal Excise Return for the period May, 2012 for all registered persons.**

In exercise of the powers conferred under section 74 of the Sales Tax Act, 1990 and section 43 of the Federal Excise Act, 2005, the Federal Board of Revenue is pleased to extend the date for payment of taxes/duty and filing of Sales Tax / Federal Excise return for the tax period May-2012, up to 30th June, 2012, for all registered persons.

S.R.O. 774(I)/2012, Islamabad, the 27th June, 2012.– In exercise of the powers conferred by section 34A of the Sales Tax Act, 1990, the Federal Government, in supersession of its Notification No. S.R.O. 606(I)/2012, dated the 1st day of June, 2012, is pleased to exempt the whole amount of default surcharge and penalties payable by a person against whom an amount of sales tax is outstanding on account of illegally adjusted input tax, subject to the following conditions:–

(i) twenty-five per cent of the principal amount of illegally adjusted sales tax is paid by the 30th June, 2012;

(ii) the remaining principal amount (seventy-five percent) is paid by the 31st December, 2012 in five equal monthly instalments with first instalment payable on the 31st August, 2012; and

(iii) any case, complaint or proceedings filed by the registered person before any court of law, Federal Tax Ombudsman or any other authority is withdrawn by 31st December, 2012.

2. Any criminal proceedings lodged by the department shall abate from the date of complying with the above conditions by the registered person.

3. In case payment is not made as per conditions mentioned above, benefit under this notification shall abate *ab initio*.