

Tax bar opposes making phone SMS as mode of service

KARACHI: Karachi Tax Bar Association (KTBA) on Tuesday opposed making mobile phone SMS as a legal mode for serving notices.

In a communication sent to Muhammad Javed Ghani, the chairman of Federal Board of Revenue (FBR), the KTBA strongly suggested that insertion of sub-rule (2A) in Rule 74 of the Income Tax Rules, 2002, would create confusion and would be counterproductive and therefore, should not be inserted.

The KTBA sent the communication with reference to feedback invited by the FBR on SRO 1250(I)/2020 dated November 23, 2020 for inserting sub-rule (2A) in Rule 74 of the Income Tax Rules, 2002.

The KTBA said that the proposed amendment for service of notice through SMS on the cell phone registered in the name of such person as per record of Pakistan Telecommunication Authority (PTA) to be considered as sufficiently served is aimed exclusively for the purpose of provision of Section 134A(12) of the Income Tax Ordinance, 2001 i.e. communications in respect Alternative Dispute Resolution (ADR) only.

The tax bar further said that this is altogether a distinct procedure for service of notice/orders for the purpose ADR cases with exclusivity is rather an unusual manner carved out from rest of given process and procedure under the Ordinance for communication and service of document and is prone to create chaos among the ADR applicants, which should be avoided.

The KTBA further informed that provisions of Section 218 of the Ordinance comprehensively deals with the mechanism of service of

notices and other documents and it provides and modus operandi for the service of notices and other documents with uniformity.

Further, clause (a) of sub-section (1) of section 218 of the Ordinance essentially mandates service of a notice/order to a taxpayer in person (via registered from the post of courier). The suggested resource to electronic service of notices and other documents under Income Tax Ordinance 2001 or corresponding rules be taken as substituted mode where service of notices/order where in ordinary way it is not possible to serve the notice and other documents or where taxpayer is avoiding service of the same for any reason.

The tax bar said that if at all the FBR desires to use this mode of communication for the purpose of ADR as apparent from draft notification, it may be inserted as an additional mode of intimation in addition to the existing modes as a source of quick alert.