

Comments on the Tax Laws (Amendment) Act, 2024



Foreword



Further to the circulation of our comments dated May 4, 2024, as a consequence of issuance of the gazetted copy of the Tax Laws (Amendment) Act, 2024 on May 07, 2024, containing few more amendments, this document contains our comments covering all the amendments as are introduced through the gazetted copy of the Act.

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Preamble

On April 26, 2024 the Federal Minister for Law and Justice, introduced a Bill (Tax Laws Amendment Bill, 2024), in the National Assembly, which was approved by the National Assembly on April 29, 2024 and on May 03, 2024 became the Tax Laws (Amendment) Act, 2024 after receiving assent from the President of Pakistan. The Act curtails the role of Commissioner Inland Revenue (Appeals), the first fact finding appellate forum, for Income Tax assessments / refunds upto Rs 20 million, and upto Rs 10 million and Rs 5 million for assessments / refunds for Sales Tax and Federal Excise Duty, respectively.

As per the Government, these amendments will expedite the processing of pending tax cases, involving tax demands of around Rs 2 trillion.

The tax advisers, tax bar associations and professional bodies have already expressed their concerns over these proposals, limiting the first appellate forum's role, by stating that this will further aggravate the pendency of appeals at Appellate Tribunal's level.

Further, in our view, limits for an appeal to lie with Commissioner (Appeals) are on lower side, considering the inflation in the country and it will effectively mean transfer of majority of the appeals to Appellate Tribunal, which will overburden the Tribunal.

The Act provides that the amendments will be effective at once, and any existing appeals pending with the Commissioner (Appeals) crossing pecuniary limits will stand transferred to Appellate Tribunal by June 16, 2024. After June 15, 2024 all new appeals will be filed with respective appellate forum as per the limits introduced through the Act.

The time duration for transfer of pending cases from one forum to another forum is grossly insufficient and will create problems for the taxpayers whose appeals are pending at Commissioner Appeals and especially cases, where stay of demand has been granted by the Commissioner Appeals. The taxpayers are likely to face undue hardship due to lack of proper communication of transfer of their cases, as well as continuity of stay of demand during the crucial month of June 2024.

It is advisable that FBR should also focus on trainings of its field officers to ensure improvement in the quality of amendment orders that would help in significant reduction of unnecessary litigation pending before the appellate forums.

Our comments as to the significant amendments introduced through the Act are covered in this document.

Amendments in the Income Tax Ordinance, 2001

1. Revision by the Commissioner [Section 122A]

Section 122A of the Ordinance, provides for revision by the Commissioner of an order passed by an Officer Inland Revenue, other than Commissioner (Appeals). Considering the introduction of pecuniary limits of Rs 20 million as to assessments for which an appeal can be filed before Commissioner Appeals, corresponding changes are also incorporated in section 122A.

2. Assessment Giving Effect to an Order [Section 124]

Section 124 of the Ordinance provides for time limit as to passing appeal effects to the orders passed by appellate forums including Commissioner (Appeals) in relation to both set-aside as well as direct relief. Considering the introduction of pecuniary limits of Rs 20 million as to assessments for which an appeal can be filed before Commissioner Appeals, corresponding changes are also incorporated in section 124. There is no change in time limit for passing appeal effects.

3. Pecuniary Jurisdiction in Appeals [Section 126A]

The newly Introduced section establishes the pecuniary jurisdiction in appeals based on the value of assessment or refund of tax, providing that:

- Appeals to the Commissioner (Appeals) shall be applicable where the value of assessment of tax or refund of tax does not exceed Rs 20 million.
- Appeals to the Appellate Tribunal Inland Revenue shall be applicable where the value of assessment of tax or refund of tax exceeds Rs 20 million.
- Cases pending before the Commissioner (Appeals) with the value of assessment of tax or refund of tax exceeding Rs 20 million shall stand transferred to the Appellate Tribunal

Inland Revenue from the 16th day of June, 2024.

- All cases transferred to the Appellate Tribunal must be decided within the period provided under section 132, commencing from the 16th day of June, 2024.
- Both, the taxpayer and the officer of Inland Revenue, aggrieved by an order of the Commissioner (Appeals) can file a reference before the High Court in accordance with section 133 of the Income Tax Ordinance, 2001.
- Previously, reference before the High Court could only be filed against an order of the Appellate Tribunal.

4. Appellate Tribunal [Section 130]

The substituted section provides for the establishment of an Appellate Tribunal Inland Revenue, with provisions regarding the appointment of members, tenure, removal, and powers. The substituted section provides that:

- An Appellate Tribunal Inland Revenue will be established to exercise jurisdiction conferred by the ordinance.
- Existing members, including the Chairman, shall continue to hold office under the same terms and conditions until the completion of their term of office or earlier removal as per specified grounds.
- The composition, appointment, and eligibility criteria for members, including the Chairman, are specified as under:
 - i. The Appellate Tribunal shall consist of members who shall be appointed by the Federal Government in such numbers, in accordance with such procedure and on such terms and conditions as the Federal

- Government may prescribe by rules, which shall be made and take effect notwithstanding anything contained in section 237 of this Ordinance or the Federal Public Service Commission Ordinance, 1977 (XLV of 1977) or any other law or rules, for the time being in force.
- ii. A person shall be eligible to be appointed as a member of the Appellate Tribunal if he-
 - (a) is an advocate of a High Court for not less than fifteen years and possesses such other qualifications as may be prescribed by rules;
 - (b) has for a period of not less than ten years practiced professionally as a chartered accountant within the meaning of the Chartered Accountants' Ordinance, '1961 (X of 1961);
 - (c) is an Officer of the Inland Revenue in BS-21 or above; or (d) is an Officer of the Inland Revenue in BS-20, having served in such grade for three years or more.
 - iii. The Chairman, as appointed by the Federal Government, shall hold office for a period of three years provided that the Federal Government may reappoint the Chairman for such further term or terms as it may deem appropriate.
 - iv. The members including, the Chairman shall cease to hold office on attaining the age of sixty-two years.
 - (a) Provided that the members, being an Officer of Inland Revenue, shall cease to hold office on attaining the age of superannuation, under the law regulating their service.
 - (b) Provided that a member including the Chairman may be removed by the Federal Government, on the recommendation of performance review committee, to be constituted by the rules, at any time before the expiry of his term or attaining the age of superannuation, as the case may be, on grounds, inter-alia, of inefficiency or misconduct, as prescribed by the rules.
 - v. The procedure of the Appellate Tribunal Inland Revenue including constitution of benches, case management system, distribution of cases and other matters ancillary or incidental thereto shall be regulated by the rules.

5. Appeal to the Appellate Tribunal [Section 131]

The substituted section explains the appeal process to the Appellate Tribunal, specifying the form, verification, fee, and timeline for filing appeals as under:

- Any person, other than an SOE, aggrieved by an order under the ordinance may prefer an appeal to the Appellate Tribunal within thirty days (as compared to existing sixty days, after receipt of the order from the Commissioner Appeals).
- Specific requirements for filing an appeal are outlined, including the prescribed form, verification, prescribed fee, and time limit.

- The prescribed fee shall be Rs 20,000 (as compared to existing fee of Rs 5,000) in case of a company; and Rs 5,000 (as compared to existing fee of Rs 2,000) in case other than a company.
- The Appellate Tribunal may admit an appeal after the expiration of the specified period under certain conditions.
- ***Provisions regarding the payment of tax, stay of recovery, and consequences of not adhering to the hearing schedule***
 - i. Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case.
 - (a) Provided that on filing of application in a particular case, the Appellate Tribunal may after affording an opportunity of being heard to the Commissioner having jurisdiction, for reasons to be recorded, stay the recovery of tax for ninety days. The stay period under existing law was 180 days.
 - (b) Provided further that the stay order shall cease to have effect, and the Commissioner shall be entitled to recover tax, if the taxpayer does not adhere to the hearing schedule for the appeal, as determined by the Appellate Tribunal in accordance with the rules made.
 - (c) Provided also that where an appeal is not decided within the statutory period by the Appellate Tribunal, the stay order shall not cease to have

effect till finalization of the appeal by the Appellate Tribunal.

6. Disposal of appeals by the Appellate Tribunal [Section 132]

The substituted section stipulates that the Appellate Tribunal must decide appeals within a certain timeframe, along with provisions for alternative dispute resolution and case management as follows:

- ***The Appellate Tribunal shall decide appeals within specified timeframes***
 - i. The Appellate Tribunal shall decide the appeal within 90 days of its filing (as compared to 180 days under existing provisions of the Ordinance).
 - ii. Provided that appeals pending before the Appellate Tribunal on the date of commencement of the Tax Laws (Amendment) Act, 2024 (of 2024), shall be decided 180 days.
 - iii. Provided further that where an appeal is not decided within the aforesaid period, the Appellate Tribunal shall seek condonation from the Minister of Law and Justice and such condonation shall not extend beyond 90 days.
- ***Provisions regarding the first hearing, adherence to hearing schedule, and granting of adjournments***
 - i. At the first hearing of appeal, the Appellate Tribunal shall:
 - (a) bring to the notice of the taxpayer; the provisions relating to alternative dispute resolution under section 134 of the Ordinance; and

- (b) If the taxpayer decline the option of alternative dispute resolution and wish to continue with the appeal, fix date or dates for hearing and decision of the appeal in consultation with the taxpayer and Commissioner and in accordance with the rules.
- ii. The Appellate Tribunal shall ensure strict adherence by the taxpayer and the Commissioner to the hearing schedule as prescribed and shall hear and decide the appeal on the date or dates fixed, and no adjournment shall be granted except:
 - (a) where there are compelling reasons for adjournment, to be recorded by the Appellate Tribunal; and
 - (b) on mandatory payment of such cost as the Appellate Tribunal may deem fit, which shall not be less than Rs 50,000:
- ***Powers of the Appellate Tribunal regarding assessment orders, refunds, and appeals related to decisions other than assessments***
 - i. Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (3), make an order to:
 - (a) affirm, modify or annul the assessment order;
 - (b) remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct; or
 - (c) make such order as the Appellate Tribunal may deem fit.
 - ii. The Appellate Tribunal shall not increase the amount of any assessment or penalty or decrease the amount of any refund unless the taxpayer has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.
 - iii. Where, as a result of an appeal, any change is made in the assessment of an association of persons or a new assessment of an association of persons is ordered to be made, the Appellate Tribunal may authorize the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit in sub-section (2) of section 122 shall not apply to the making of such amended assessment.
 - iv. Where the appeal relates to a decision other than in respect of an assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and issue such consequential directions as the case may require.
 - v. The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.
 - vi. Save as provided in section 133, the decision of the Appellate Tribunal on an appeal shall be final.

7. Reference to High Court [Section 133]

The substituted section provides for the modification of the procedure for referring cases to the High Court, including the establishment of Special Benches, time limits, and application fees.

- ***Provisions for filing a reference to the High Court within thirty days of the communication of the order***

- i. Within 30 days of the communication of the order of the Appellate Tribunal, or, as the case may be, Commissioner (Appeals), the aggrieved person or the Commissioner may file a reference, in the prescribed form, along with a statement of the case, before the High Court, stating:

- a. any question of law or
- b. a mixed question of law and fact arising out of such order.

Provided that the applicant shall also file complete record of the Appellate Tribunal within 15 days of preferring an application under this section.

Previously, a reference before the High Court was to be filed within 90 days of the receipt of the order from the Appellate Tribunal and against a question of law. Subsequent to amendment through the Act, reference can now also be filed against the order of the Commissioner Appeals.

Further, reference can now also be filed for mixed question of law (i.e. matters involving both factual as well as legal controversy).

- ii. The statement to the High Court referred to above, shall set out the facts, the determination of the Appellate Tribunal and the question of law or the mixed question of law and fact which arises out of its order.

- ***Composition and procedures for hearing references by the High Court***

- i. Where, on an application made, the High Court is satisfied that a question of law or the mixed question of law and facts arises out of such order, it may proceed to hear the case.
- ii. A reference to the High Court under this section shall be heard by a Special Bench or Special Benches, as the case may be, to be constituted, by the Chief Justice, as deem necessary, constituted for hearing cases under this section, comprising of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply, so far as may be, notwithstanding anything contained in any other law for the time being in force.
- iii. The Special Bench shall decide a reference within six months from the date of its filing.

- ***Timeframes for deciding references, establishment of a case management system, and communication of the High Court's judgment***

- i. The High Court shall establish a case management system to ensure that sufficient number of Special Benches are constituted, so as to ensure that a reference filed under this section is decided within the stipulated six months. Under the existing provisions of the Ordinance, no such time limit is provided for decision of reference by the High Court.

- ii. The High Court upon hearing a reference under this section shall decide the question of law or the mixed question of law and fact raised by the reference and pass judgment thereon specifying the grounds on which such judgment is 'based and the Appellate Tribunal's order shall stand modified accordingly.
 - iii. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.
 - a. Provisions regarding payment of tax, stay of recovery, and limitation for filing applications are outlined.
 - iv. Notwithstanding that a reference has been filed before the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal.
 - v. Provided that the tax recovery shall not be made by the Commissioner for 30 days from the date of communication of the order of the Appellate Tribunal.
 - vi. Provided further that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court and some amount of tax is found to be refundable, the High Court may, on application by the Commissioner within 30 days of the receipt of the judgment of the High Court that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.
 - vii. On an application filed in a particular reference and after affording an opportunity of being heard to the Commissioner' the High Court may stay recovery of tax, subject to deposit with the assessing authority of not less than thirty percent of the tax determined by the Appellate Tribunal.
 - viii. Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court earlier.
 - ix. Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).
 - x. A reference application shall be accompanied by a fee of Rs 50,000.
 - xi. No reference application, filed by the Commissioner, shall be entertained unless it is accompanied by a written authorization by the relevant Chief Commissioner.
- 8. Alternative Dispute Resolution [Section 134 A]**
- The substituted section provides for the resolution of disputes, including the appointment of committees, application requirements, and withdrawal of litigation.
- ***Amendments specify conditions for applying to the Board for dispute resolution***
 - i. Notwithstanding any other provision of this Ordinance' or the rules made thereunder, an aggrieved person in connection with any dispute Pertaining to:
 - (a) the liability of tax of Rs 50 million or above against

the aggrieved person or admissibility of refund' as the case may be (as compared to previous limit of Rs 100 million);

- (b) the extent of waiver of default surcharge and penalty; or
- (c) any other specific relief required to resolve the dispute,

may apply, except where criminal proceedings have been initiated' to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:

ii. Where the aggrieved person is a State-owned Enterprise (SOE), the limit of tax liability of Rs 50 million or above shall not apply.

- iii. It shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section.
- iv. No suit, prosecution, or other legal proceedings shall lie against the SoE or the ADRC in relation to the dispute resolved under this section.

Explanation- State-Owned Enterprise shall have the same meaning as assigned thereto in the State Owned Enterprises (Governance and operations) Act, 2023 (VII of 2023).

- **Requirements for the application, initial proposition for resolution, and acceptance of the Committee's decision.**

i. The application for dispute resolution shall be accompanied by:

- (a) an initial proposition for resolution of the dispute, including an offer of tax payment; and
- (b) an undertaking that the applicant shall accept the decision of the Committee which shall be binding on him in all respects and shall on receipt of the decision immediately withdraw any and all pending litigation or cases of any kind in respect of the dispute' mentioning details thereof:

ii. If the applicant is an SOE, it shall withdraw any and all such pending litigation and cases immediately and mention the details thereof in the undertaking.

iii. The SOE may file an appeal to the Appellate Tribunal or the High Court or the Supreme Court, as the case may be, where subsection (11) of this section is applicable, i.e. upon dissolution of the ADRC by the Board in case of failure of the Committee to decide the dispute within an aggregate period of sixty days from its appointment.

- **Procedures for dissolution and timeframes for deciding appeal:**

On receipt of the order of dissolution, the court of law or the Appellate Tribunal shall decide the appeal within 90 days of the communication of the said order.

Amendments in the Sales Tax Act, 1990

1. Directorate-General of Law [Section 30DDDA]

A new section has been inserted empowering the Board to constitute Directorate- General of law and specify its functions, jurisdiction and powers. The Directorate General of Law shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Law Officers and such other officers as the Board may, by notification in the official Gazette, appoint.

2. Pecuniary Jurisdiction in Appeals [Section 43A]

The newly introduced section establishes the pecuniary jurisdiction in appeals based on the value of assessment or refund of tax, providing that:

- Appeals to the Commissioner (Appeals) shall be applicable where the value of assessment of tax or refund of tax does not exceed Rs 10 million.
- Appeals to the Appellate Tribunal Inland Revenue shall be applicable where the value of assessment of tax or refund of tax exceeds Rs 10 million.
- Cases pending before the Commissioner (Appeals) with the value of assessment of tax or refund of tax exceeding Rs 10 million shall stand transferred to the Appellate Tribunal Inland Revenue from the 16th day of June, 2024.
- All cases transferred to the Appellate Tribunal must be decided within the period provided under section 132 of the Ordinance, commencing from the 16th day of June, 2024.
- A person or, as the case may be, an officer of Inland Revenue aggrieved by an order of the Commissioner (Appeals) can now file a reference before the High Court in accordance with section 133 of the Income Tax Ordinance, 2001.

3. Appeals [Section 45B]

Provisions of section 45B have been aligned to the above newly introduced section 43A whereby appeals before the Commissioner (Appeals) can now only be filed in cases where the value of assessment of tax or refund does not exceed Rs. 10 million.

4. Appeal to the Appellate Tribunal [Section 46]

The substitution in the section provides for eligibility of the cases and time limitation for filing of appeal to the Appellate Tribunal, as under:

- Any person other than an SOE aggrieved by an order passed under the ST Act of an Officer Inland Revenue, Board or the Commissioner (Appeals) may prefer an appeal to the Appellate Tribunal within thirty days (as compared to existing sixty days, after receipt of the order from the Commissioner Appeals).
- An SOE may only prefer appeal before the Tribunal in case of application of sub-section (11) of section 134A of Income Tax Ordinance, 2001 i.e. upon dissolution of the ADRC by the Board in case of failure of the Committee to decide the dispute within an aggregate period of sixty days from its appointment.

5. Reference to the High Court [Section 47]

The substitution in the section provides for the time limitation and other provisions for referring cases to the High Court, as under:

- i. Within 30 days of the communication of the order of the Appellate Tribunal, or as the case may be, Commissioner (Appeals), the aggrieved person or the Commissioner may file a reference, in the prescribed form, along with a statement of the case, before the High Court, stating any question of law or the mixed question of law and fact arising out of such order.

Previously, a reference before the High Court was to be filed within 90 days of the receipt of the order from the Appellate Tribunal and against a question of law.

Subsequent to amendment through the Act, reference can now also be filed against the order of the Commissioner Appeals.

Further, reference can now also be filed for mixed question of law (i.e. matters involving both factual as well as legal controversy).

- ii. Provisions of section 133 of the Ordinance and rules made thereunder relating to a reference to the High Court shall, '*mutatis mutandis*' apply to references to the High Court under this Act.

6. Alternative Dispute Resolution [Section 47A]

The substituted section provides for the resolution of disputes, including the appointment of committees, application requirements, and withdrawal of litigation.

- **Amendments specify conditions for applying to the Board for dispute resolution**

- i. Notwithstanding any other provision of the ST Act or the rules made thereunder, an aggrieved person in connection with any dispute Pertaining to:
 - (a) the liability of tax of Rs 50 million or above against the aggrieved person or admissibility of refund' as the case may be (as compared to previous limit of Rs 100 million);
 - (b) the extent of waiver of default surcharge and penalty; or
 - (c) any other specific relief required to resolve the dispute,

may apply, except where criminal proceedings have been initiated' to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:

- ii. Where the aggrieved person is a State-owned Enterprise (SOE), the limit of tax liability of Rs 50 million or above shall not apply.
- iii. It shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section.
- iv. No suit, prosecution, or other legal proceedings shall lie against the SoE or the ADRC in relation to the dispute resolved under this section.

Explanation- State-Owned Enterprise shall have the same meaning as assigned thereto in the State Owned Enterprises (Governance and operations) Act, 2023 (VII of 2023).

- v. Provisions of section 134A of the Ordinance and rules made thereunder relating to Alternative Dispute Resolution shall, '*mutatis mutandis*' apply to applications for alternative dispute resolution under this Act.

7. Automatic Stay Against Recovery of Tax [Section 48]

Through amendment made under this section, automatic stay against recovery of tax under this section upon payment of 10% of the sales tax demand shall also be available during pendency of appeal before the Appellate Tribunal which earlier was available only during the pendency of appeal before the Commissioner Appeals.

Amendments in the Federal Excise Act, 2005

1. Directorate-General of Law [Section 29]

A new clause (e) to subsection (2) of section 29 has been inserted empowering the Board to constitute Directorate- General of law and specify its functions, jurisdiction and powers. The Directorate General of Law shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Law Officers and such other officers as the Board may, by notification in the official Gazette, appoint.

2. Pecuniary Jurisdiction in Appeals [Section 33A]

The newly introduced section establishes the pecuniary jurisdiction in appeals based on the value of assessment or refund of tax, providing that:

- Appeals to the Commissioner (Appeals) shall be applicable where the value of assessment of tax or refund of tax does not exceed Rs 5 million.
- Appeals to the Appellate Tribunal Inland Revenue shall be applicable where the value of assessment of tax or refund of tax exceeds Rs 5 million.
- Cases pending before the Commissioner (Appeals) with the value of assessment of tax or refund of tax exceeding Rs 5 million shall stand transferred to the Appellate Tribunal Inland Revenue from the 16th day of June, 2024.
- All cases transferred to the Appellate Tribunal must be decided within the period provided under section 132 of the Ordinance, commencing from the 16th day of June, 2024.
- A person or, as the case may be, officer of Inland Revenue aggrieved by an order of the Commissioner (Appeals) can now file a reference

before the High Court in accordance with section 133 of the Income Tax Ordinance, 2001..

Note: The word of 'tax' wherever used in this section should be substituted with the word 'duty'.

3. Appeal to the Appellate Tribunal [Section 34]

The substitution in the section provides for legibility of the cases and time limitation for filing of appeal to the Appellate Tribunal, as under:

- Any person other than an SOE aggrieved by an order passed under the Act of an Officer Inland Revenue, Board or the Commissioner (Appeals) may prefer an appeal to the Appellate Tribunal within thirty days (as compared to existing sixty days, after receipt of the order from the Commissioner Appeals).
- An SOE may only prefer appeal before the Tribunal in case of application of sub-section (11) of section 134A of Income Tax Ordinance, 2001 i.e. upon dissolution of the ADRC by the Board in case of failure of the Committee to decide the dispute within an aggregate period of sixty days from its appointment.

4. Reference to the High Court [Section 34A]

The substitution in the section provides for the time limitation and other provisions for referring cases to the High Court, as under:

- i. Within 30 days of the communication of the order of the Appellate Tribunal, or as the case may be, Commissioner (Appeals), the aggrieved person or the Commissioner may file a reference, in the prescribed form, along with a statement of the case, before the High Court, stating any question of law or

the mixed question of law and fact arising out of such order.

Previously, a reference before the High Court was to be filed within 90 days of the receipt of the order from the Appellate Tribunal and against a question of law.

Subsequent to amendment through the Act, reference can now also be filed against the order of the Commissioner Appeals.

Further, reference can now also be filed for mixed question of law (i.e. matters involving both factual as well as legal controversy).

- ii. Provisions of section 133 of the Income Tax Ordinance, 2001 and rules made thereunder relating to a reference to the High Court shall, '*mutatis mutandis*' apply to references to the High Court under this Act.

5. Alternative Dispute Resolution [Section 38]

The substituted section provides for the resolution of disputes, including the appointment of committees, application requirements, and withdrawal of litigation.

- **Amendments specify conditions for applying to the Board for dispute resolution**

- i. Notwithstanding any other provision of the FE Act or the rules made thereunder, an aggrieved person in connection with any dispute Pertaining to:
 - (a) the liability of tax of Rs 50 million or above against the aggrieved person or admissibility of refund' as the case may be (as compared to previous limit of Rs 100 million);

- (b) the extent of waiver of default surcharge and penalty; or

- (c) any other specific relief required to resolve the dispute,

may apply, except where criminal proceedings have been initiated' to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:

- ii. Where the aggrieved person is a State-owned Enterprise (SOE), the limit of tax liability of Rs 50 million or above shall not apply.
 - iii. It shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section.
 - iv. No suit, prosecution, or other legal proceedings shall lie against the SoE or the ADRC in relation to the dispute resolved under this section.
- Explanation-* State-Owned Enterprise shall have the same meaning as assigned thereto in the State Owned Enterprises (Governance and operations) Act, 2023 (VII of 2023).
- v. Provisions of section 134A of the Ordinance and rules made thereunder relating to Alternative Dispute Resolution shall, *mutatis mutandis* apply to applications for alternative dispute resolution under this Act.

Note: The word 'tax' as used in this section needs to be substituted with the word 'duty'.

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