



YOUSUF ADIL
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Tax Bulletin

July 2024



Foreword



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Karachi
July 18, 2024

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Executive Summary

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Direct Tax – Reported Decisions			
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2	2024 PTD 733	ATIR HELD THAT TAXPAYER SHOULD NOT BE FORCED TO PAY A DEMAND CREATED BY A REVENUE AUTHORITY UNLESS THE ORDER CREATING SUCH DEMAND HAS UNDERGONE THE SCRUTINY OF AT LEAST ONE INDEPENDENT FORUM.	08
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Indirect Tax – Notifications – Sales Tax Act, 1990			
1	S.R.O. 923(1)/2024 dated June 29, 2024	Certain notifications have been rescinded through which exemption from sales tax or zero rating was available, consequent to chargeability of sales tax on such goods or providing exemptions under the Sixth Schedule to the Sales Tax Act, 1990 through the Finance Act, 2024	10
Indirect Tax – Reported Decisions- Sales Tax Act, 1990			
1	2024 PTD 846 SHC	RULES ARE SUBORDINATE LEGISLATION AND CANNOT OVERRIDE THE PARENT STATUTE It was held by the Sindh High Court that Rules are merely subordinate legislation and cannot override or prevail upon the provisions of the parent Statute.	10

S.No.	Reference	Summary / Gist	Page No
Indirect Tax – Notifications – Sindh Sales Tax on Services Act, 2011			
1	No. SRB-3-4/23/2024 dated June 29, 2024	<p>Notification no. SRB-3-4/7/2013 dated June 18, 2013, providing for exemptions, is amended to exclude certain services from list of exempt services. Excluded services include:</p> <ul style="list-style-type: none"> - Restaurant, caterers, marriage halls and lawns located in farmhouse - Foreign exchange dealers, exchange company, money changer & money exchanger - Cable TV operators <p>Further, following new services are included in the list of exempt services subject to specified threshold:</p> <ul style="list-style-type: none"> - Medical practitioners and consultants - Hospitals and clinics - Education Services 	11
2	No. SRB-3-4/24/2024 dated June 29, 2024	<p>Through notification no. SRB-3-4/8/2013 dated July 01, 2013, following services subject to reduced rates are notified:</p> <ul style="list-style-type: none"> - Restaurants - foreign exchange dealer or exchange company or money changer or money exchanger - Medical practitioners and consultants - Cable TV operators - Distribution services - Education services - Hospitals and Clinics - Outdoor sports and games center - Inter-city transportation - Vehicle towing services 	12
3	No. SRB-3-4/25/2024 dated June 29, 2024	<p>Notification no. SRB-3-4/19/2021 dated June 29, 2021 is amended to extend the chargeability of reduced rating till 2025-26 for recruiting agent for recruitment of person(s) for employment outside Pakistan.</p>	13
4	No. SRB-3-4/26/2024 dated June 29, 2024	<p>Consequent to chargeability of Sindh Sales Tax on intra-city transportation or carriage of goods through the Sindh Finance Act, 2024, Rules related to Transportation or Carriage of petroleum oils through oil tankers to cater the taxability of intra-city transportation are now also amended.</p>	14
Indirect Tax – Notifications – Sindh Sales Tax on Services Act, 2011			
5	No. SRB-3-4/27/2024 dated June 29, 2024	<p>Rules in relation to registration matters and Special procedures related to certain services is now amended. Further, new rules have been inserted in relation to services which are made taxable through the Sindh Finance Act, 2024.</p>	14

S.No.	Reference	Summary / Gist	Page No
6	No. SRB-3-4/28/2024 dated June 29, 2024	Sindh Sales tax Special Procedure (Withholding) Rules, 2014 are amended to revamp the categories of withholding agent, rate of sales tax withholding for certain withholding agent and maintenance of record by withholding agents.	17
7	No. SRB-3-4/29/2024 dated June 29, 2024	Amendments are made in Sindh Sales Tax Special Procedure (Online Integration of Business) Rules, 2022 in respect of access to record by authorized officer of SRB, reporting of POS invoices and disclosure of sales in Annexure C.	18
8	No. SRB-3-4/30/2024 dated June 29, 2024	Amendment is made in Sindh Sales Tax Special Procedure (Tax on Specified Services) Rules, 2023 to align the definition of specified services with the categories of taxable services listed in said Rules	18
Indirect Tax – Reported Decisions – Sindh Sales Tax on Services Act, 2011			
1	2024 PTD 793 SHC	SALES TAX ON TOLL MANUFACTURING WILL REST WITH FBR. It was held by the SHC that once the Province has agreed that sales tax on toll manufacturing will rest with the FBR, it is no more a service and for the period before July 1, 2022 (i.e. the period before exemption provided by SRB), if tax has already been paid by the petitioners in respect of toll manufacturing to FBR, it is their final discharge of liability in respect of sales tax, either under the Sales Tax Act, 1990 or under the Sindh Sales Tax on Service Act, 2011 and they will not be obliged to pay any further sales tax on such activity.	19

Income Tax Ordinance, 2001

A. Notification:

1. S.R.O. 949(I)/2024 dated July 4, 2024

FBR has introduced electronic forms for return filing of Tax Year 2024 for salaried persons, association of persons, companies and business individuals which were previously published vide S.R.O. 895(1)/2024 dated June 21, 2024 for approval through amendment in Income Tax Rules, 2002.

B. Reported Decisions:

1. NONE OF THE ASSETS OF A NON-PROFIT ORGANIZATION MAY CONFER PRIVATE BENEFIT TO ANOTHER PERSON

2024 PTD 808

LAHORE HIGH COURT

**KASHF FOUNDATION
VS**

**CHIEF COMMISSIONER INLAND
REVENUE, LTU, FEDERAL BOARD OF
REVENUE**

**APPLICABLE SECTIONS: 2(36) AND 80
OF THE INCOME TAX ORDINANCE,
2001 (THE ORDINANCE) AND RULE
217 OF THE INCOME TAX RULES, 2002
(THE RULES)**

Brief Facts:

In the instant case, Commissioner Inland Revenue (CIR) withdrawn approval granted to Kashf Foundation, a Non-Profit Organization (NPO), under section 2(36) of the Ordinance, by exercising powers conferred under Rule 217 of the Rules. Furthermore, the Chief Commissioner also dismissed the appeal filed by Kashf Foundation confirming the order of the CIR.

The CIR withdrew the approval by contending that the assets of the Petitioner were employed in a manner to confer personal gain to another person. The basis for such contention was on account of a loan transaction made in July 2008, whereby a loan amounting to Rs 180.5 million was extended by the NPO to its associated concern, Kashf Holdings (Pvt.)

Limited (KHPL). The loan was offered on an uncompetitive and concessional rate of mark-up. The NPO, filed petition before the High Court of Lahore (LHC) and in its defense, the counsel of the petitioner NPO argued that the loan was used to channel funds to Kashf Microfinance Bank, which needed capital to meet its minimum requirements and in return has acquired substantial influence over the affairs of the Bank. Moreover, the nature, objective and context of the transaction under reference was misconstrued.

Decision:

LHC held that the CIR has rightly withdrawn the approval granted to NPO due to the following reasons:

- NPOs established under section 42 of the Companies Ordinance, 1984 (now the Companies Act, 2017) are essentially obligated to fulfill conditions and requirements prescribed under section 2(36) of the Ordinance and those prescribed under Rules 217 and 213(2)(a) of the Rules. The referred section and the Rules specifically provide that none of the assets of the NPO confers, or may confer, a private benefit to any other person.
- It was determined through the detailed review of the matter that the NPO acquired 900,000 new shares of KHPL at a premium of Rs. 60 per share which has manifested a capital gain for KHPL, inter alia raising capital interest of the shareholders. It is reiterated that incidence of gain need not be realized on the spot but gain otherwise deferred to a realizable event in future, is still a benefit-cum-gain.
- Initially, the term of the loan was ten years. Later, not only the loan terms were restructured from time to time but also has caused an impairment loss of Rs. 56.99 million to the NPO.
- The decisions of granting loan and acquisition of shares were taken in an Extraordinary General Meeting. Further, the CEO and Director of the NPO was also the 99% shareholder of KHPL at that time.
- The transactions of loan and acquisition of shares have undoubtedly improved the

financial conditions of KHPL which ultimately caused benefit to the shareholders of the Company. Hence, it can be construed that not only the loan transaction but also acquisition of shares at premium caused benefit to the associated concern of the NPO.

2. TAXPAYER SHOULD NOT BE FORCED TO PAY A DEMAND CREATED BY A REVENUE AUTHORITY UNLESS THE ORDER CREATING SUCH DEMAND HAS UNDERGONE THE SCRUTINY OF AT LEAST ONE INDEPENDENT FORUM

2022 SLD 1183 = (2022) 126 TAX 294 = 2024 PTD 733

APPELLATE TRIBUNAL INLAND REVENUE

ABDUL RASHEED, KARACHI VS THE COMMISSIONER-IR, Zone-II, LTU-II, KARACHI

Brief Facts:

Appeal of the taxpayer was pending before the ATIR for the decision; however, in meantime, the Department forcefully recovered the amounts from the accounts of the taxpayer maintained in a Bank. Hence, the taxpayer filed a miscellaneous application before the ATIR against the above action.

Arguments:

The taxpayer apprised that appeal of the was pending adjudication before this ATIR, but in the meantime, the Department has started taking coercive measures for recovery of the impugned tax demand, despite the fact that the appeal of the taxpayer has not gone through the scrutiny by an independent judicial forum

Department on the other hand submitted that the directions of the ATIR in the Order Sheet could not be conveyed to the concerned Officer due to oversight and such unfortunate incident of recovery of the amounts from the bank happened, for which the Officer sought pardon from the ATIR and handed over the original pay orders to the taxpayer.

Decision:

ATIR granted 60 days of stay against the demand and decided that:

- The taxpayer should not be forced to pay a demand created by a Revenue Authority unless the order creating such demand has undergone the scrutiny of at least one independent forum. Reliance is placed on following decisions:

2006 PTD 535
2006 PTD 2207
2003) PTD 1746 = 89 Tax 177

3. THE TAX DEPARTMENT SHALL NOT INVOKE THE PROVISIONS OF SECTION 140 WITHOUT SEEKING PRIOR APPROVAL FROM FBR 2023 SLD 1423 = 2023 LHC 7493 = (2024) 129 TAX 643 LAHORE HIGH COURT

SARDAR WASEEM ILYAS VS FEDERATION OF PAKISTAN, ETC

APPLICABLE SECTIONS: 2(13),122(5A),210 AND 211 OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE)

Brief Facts:

The Department withdrew an amount from personal account of petitioner by invoking section 140 of the Ordinance. Hence petitioner filed petition before LHC.

Arguments

The Petitioner argued that impugned notice addressed to the bank is without any details of demand under an assessment order against the petitioner.

The Department justified the action under section 140 of the Ordinance and argued that the tax demand is against the company, of which petitioner is a director. He further added that a notice dated September 21, 2023, under section 139 of the Ordinance was served on the petitioner, before taking action under section 140 of the Ordinance.

The Petitioner was confronted with the notice under section 140 of the Ordinance, which did not disclose service of notice under section 139 of the Ordinance.

Decision:

LHC allowed the petition and directed the Department to return the amount to the petitioner within 15 days and held that:

- The provisions of section 140 shall be invoked, when the Department believes that the taxpayer may run away with the demand, which will become irrecoverable forever. Such action against an active taxpayer, for the sake of recovery only, amounts to robbery, if due process is not followed. Till the time it is incorporated in the Rules, the Department shall not invoke the provisions of section 140, without seeking prior approval from FBR.
- Reliance placed on decisions reported as 2015 PTD 458, 2016 PTD 1799, 2021 PTD 162 and 2022 PTD 1763, whereby directions were given, confirming the fundamental rights of the taxpayer under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 with specific direction that non-recoverability should be confronted to the taxpayer through notice under the section 139 of the Ordinance.
- In the instant case, notice under Section 140 of the Ordinance does not disclose any detail of creating or shifting the demand enforceable against the petitioner. It has already been held that proceedings under section 138 are sine qua non for invoking the provisions of section 140. Reliance was placed on the judgment reported as 2023 PTD 146.

4. ADVANCE INCOME TAX AND EXTRA / FURTHER SALES TAX IS NOT APPLICABLE ON THE PERSON HAVING REGISTERED OFFICE AND MANUFACTURING UNIT IN FATA/PATA 2024 PTD 818

PESHAWAR HIGH COURT

**SHAH STEEL INDUSTRY AND OTHERS
VS
FEDERATION OF PAKISTAN**

**WRIT PETITION NO.505-P OF 2023,
DECIDED ON May 25, 2023**

APPLICABLE SECTIONS: 53, 159, 235 AND 109A OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE), 3 & 14 OF THE SALES TAX ACT, 1990 (THE ACT), ARTICLE 247 OF CONSTITUTION OF PAKISTAN

Brief Facts:

The petitioners established their industrial units at erstwhile FATA and claimed that they are exempt from the payment of income tax under the Ordinance, and further/extra tax under section 3 of the Act.

The respondent contested that after 25th amendment in the constitution of Pakistan through Act of 2018 dated May 24, 2018, all Federal Laws stood extended to the territories of erstwhile FATA. Hence, the claim of exemption of the petitioners from income tax and sales tax is misconceived.

Decision:

PHC allowed the petition in the following manner:

- The demand of the respondent / Department of advance income tax under the Ordinance from the petitioners whose registered office are situated in the erstwhile FATA/PATA through their monthly electricity bills, is illegal and without lawful authority.
- The demand of the responded/department for extra tax and further tax under the Act from the petitioners, who have established their manufacturing units at erstwhile FATA/PATA and are registered with the respondent under section 14 of the Act and have an active tax profile on the relevant portal of the FBR, is illegal and without lawful authority.
- The respondent / PESCO / TESCO are directed not to demand income tax under the Ordinance and extra tax / further tax under the Act from the petitioners who fulfill the aforesaid two conditions.

Sales Tax Act, 1990

A. Notification:

1. S.R.O. 923(1)/2024 dated June 29, 2024

Through aforesaid notification, the Federal Government has rescinded following notifications which become infructuous due to amendments in tax laws which are summarized as under.

- SRO 1501(I)/2021, dated November 22, 2021

Exemption from sales tax on import of edible fruits from Afghanistan under PCT heading 0808.1000 except apples was provided through aforesaid notification. This exemption was incorporated under serial 15 of Table 1 of Sixth Schedule to the Act through the Finance Act, 2023. Now, such exemption is withdrawn through the Finance Act, 2024 and import of edible fruits from Afghanistan is made chargeable to sales tax at the standard rate of 18%. Therefore, aforesaid notification for exemption is withdrawn accordingly.

- SRO 1635(1)/2022, dated August 30, 2022

Exemption from sales tax on import of goods received in the event of a natural disaster or other catastrophe, as gifts and relief consignments or any goods received as gift or donation from a foreign government or organization by the Federal or Provincial Governments or any public sector organization is provided through aforesaid notification. However, said exemption is now provided under serial 175 of Table 1 of the Sixth Schedule through the Finance Act, 2024. Therefore, aforesaid exemption notification is now revoked being infructuous.

- SRO 321(1)/2022, dated March 01, 2022

Sales tax on petroleum products was chargeable at zero rate through aforesaid notification. Through the Finance Act, 2024, sales tax on petroleum products is exempted through insertion of serial no. 176, Table I of the Sixth Schedule to the Act. Consequently, aforesaid notification is now withdrawn. Here, it is pertinent to mention that previously at zero rating,

input tax adjustment / refund was allowed against supply of petroleum products. However, due to exemption on petroleum products, input tax adjustment / refund will not be available and become part of cost.

B. Reported Decisions:

1. RULES ARE SUBORDINATE LEGISLATION AND CANNOT OVERRIDE THE PARENT STATUTE.

**2024 PTD 846
SINDH HIGH COURT
M/S. POPULAR INTERNATIONAL
(PVT.) LIMITED
VS
PAKISTAN**

Applicable provisions: SRO 526(I)/202 dated April 30, 2021 and Entry 81 of 8th Schedule to the Sales Tax Act, 1990 (the Act).

Brief facts:

In the instant case, M/s Popular International (Pvt.) Limited (the Appellant) is engaged in the import and distribution of drugs (specifically 'sutures') and charges sales tax at the rate of 1% as per entry 81 of Eighth Schedule to the Act. The benefit of such concessionary rate of sales tax was denied to the Appellant after notification SRO 526(I)/202 dated April 30, 2021 issued by DRAP under DRAP Act, 2012 wherein, sutures were reclassified as 'medical device' instead of 'drug' and thus subject to sales tax at the standard rate.

The Appellant argued that the said SRO does not change the status of the sutures as drug under the Drugs Act, 1976 and even under the DRAP Act, 2012, sutures are not termed as medical device. SRO 526(I)/202 amends the Medical Devices Rules, 2017 and reliance of the same to deny the benefit of entry 81 is completely without lawful authority.

Decision:

The Sindh High Court decided the appeal in favor of the Appellant on the ground that it is well settled position that Rules are merely subordinate legislation and cannot override or prevail upon the provisions of the parent Statute. In case of any inconsistency between the Rule and the Statute, the latter must prevail.

Sindh Sales Tax on Services Act, 2011

A. Notifications:

1. No. SRB-3-4/23/2024 dated June 29, 2024

Through aforesaid notification, SRB has made further amendments in its original notification of exemption bearing reference No. SRB-3-4/7/2013 dated June 18, 2013, w.e.f. July 01, 2024. The changes brought in the original exemption notification are summarized as under:

A. Withdrawal of Exemptions:

i. Restaurant, caterers, marriage halls and lawns located in farmhouses:

Services provided by restaurants and caterers (Tariff heading 9801.2000) whose turnover does not exceed Rs. 2.5 million in a financial year; and services provided by marriage halls and lawns (Tariff Heading 9801.5000) located in plots measuring 800 square yards or less, are exempt from Sindh Sales Tax on Services (SST) with certain exceptions including in cases of those located within the building, premises, precincts, hall or lawn of any of the following whose services are liable to sales tax:

- a. hotel
- b. motel
- c. guest house or
- d. club

As the services of farm houses have also been brought into the list of taxable services through Sindh Finance Act, 2024, the SRO has included farmhouse in the above listed exclusions from exemption threshold.

ii. Services of Foreign Exchange Dealers, exchange company, moneychanger & money exchangers

SRB has withdrawn exemption from SST on services provided by a foreign exchange dealer or exchange company or moneychanger or money exchanger in consideration of 'spread' charges as permitted by the State Bank of

Pakistan in relation to buying and selling of foreign currencies.

Said services are made chargeable to SST at reduced rate of 3% through notification no. SRB-3-4/24/2024 dated June 29, 2024. **(Tariff heading 9813.9000)** (please refer below summary of reduced rating notification)

iii. Cable TV Operators:

SRB has withdrawn exemption from SST on services provided by cable TV Operators in rural areas under PEMRA's license of 'R' category.

Aforesaid services are now made chargeable to SST at reduced rates through notification no. SRB-3-4/24/2024 dated June 29, 2024 **(Tariff heading 9819.9000)** (please refer below summary of reduced rating notification)

B. New insertions / exemptions:

i. Medical Practitioners and consultants:

- a) Services provided by Medical Practitioner and Consultants have been brought into the list of taxable services vide Sindh Finance Act, 2024 under Tariff heading 9815.1000. The amending SRO provides for exemption from SST on services provided by medical practitioner and consultants where consultation / visit fee or charges does not exceed Rs. 3,000 per consultation / visit. However, such exemption shall not apply in case of services of cosmetic and plastic surgery provided by medical practitioner and consultants which are covered under tariff heading 9842.0000.

Services beyond above threshold have been made chargeable to SST at reduced rate of 3% (please refer below summary of reduced rating notification).

ii. Hospitals and clinics:

Services provided by Hospitals and Clinics have been included into the list of taxable services vide Sindh Finance Act, 2024 under Tariff heading 9858.0000. The amending SRO provides exemption from SST on services provided by hospitals and clinics for provision of rooms / beds for their indoor patients and day-care patients where per day charges (including allied fixed charges, if any) for such room / bed does not exceed Rs. 25,000 per room / bed.

Services beyond above threshold have been made chargeable to SST at reduced rate of 3% (please refer below summary of reduced rating notification).

iii. Education Services:

Services provided by educational institutions (except for special education for students with special need and adult literacy program) have been brought into the list of taxable services vide Sindh Finance Act, 2024 under Tariff heading 9857.0000. The amending SRO provides exemption from SST on education services provided by an educational institution where the amount of fee / charges does not exceed Rs. 500,000 per annum per student.

Services beyond above threshold have been made chargeable to SST at reduced rate of 3% (please refer below summary of reduced rating notification).

2. No. SRB-3-4/24/2024 dated June 29, 2024

SRB through aforesaid notification has made amendment in the original notification of reduced rating bearing reference No. SRB-3-4/7/2013 dated June 18, 2013 pertaining to reduced / fixed rate of SST subject to certain conditions. Such amendments are summarized as under:

A. New insertions

Following services have been made chargeable to SST at reduced rates subject to specified conditions:

Tariff Heading	Description	SST Rate	Conditions
9801.2000	Services provided or rendered by restaurants including the restaurants located in hotels, motels, guest houses and farmhouses.	8%	1. Where payment against tax invoices for restaurant services is received through debit or credit cards, mobile wallets or QR scanning. 2. Input tax credit/adjustment shall not be admissible.
9813.9000 and 9819.2000	Service provided or rendered by a foreign exchange dealer or exchange company or money changer or money exchanger	3%	Input tax credit/adjustment shall not be admissible.
9815.1000	The services, other than the services of cosmetic and plastic surgery of heading 9842.0000, as are provided or rendered Medical practitioners Consultants	3%	Input tax credit/adjustment shall not be admissible.
9819.9000	a) Cable TV Operators. b) Stand-alone Cable Operators. Explanation: For the purpose of this notification, a 'stand-alone Cable TV Operator' means a person whose principal activity is the provision of services of	a) 10% b) 2%	Input tax credit/adjustment shall not be admissible.

	"Cable TV Operators" of tariff heading 9819.9000 and whose other service-related business activity, if any, is restricted to the provision of the taxable services of "advertisement on Cable TV network" of tariff heading 9802.5000.		
9845.0000	Distribution Services	5%	1. In case where the distribution services are provided or rendered by a registered person in relation to the drugs registered under the Drugs Act, 1976 (Act No. XXXI of 1976). 2. Input tax credit/adjustment shall not be admissible.
9857.0000	Education services	3%	Input tax credit/adjustment shall not be admissible.
9858.0000	Services of provision of rooms/beds by hospitals and clinics for its indoor patients or day-care patients	3%	Input tax credit/adjustment shall not be admissible.

B. Change in scope of tariff headings subject to reduced rate of SST:

i. Outdoor Sports and Games Center

Previously, only indoor sports and games center were chargeable to SST at reduced rate of 10% without input tax credit adjustment. Now, outdoor sports are also chargeable to SST w.e.f. July 01, 2024 consequent to amendment brought through the Sindh Finance Act, 2024. Therefore, corresponding change has been made to allow existing reduced rating of SST to both indoor and outdoor sports and games centers **(Tariff heading 9821.2000)**

ii. Intra-city transportation:

Inter-city transportation or carriage of goods by road or through pipeline or conduit was subject to reduced rate of SST at the rate of 8% unless service provider opts for standard rate through filing of option. Further, inter-city transportation through bus / wagon stand subject to certain exclusion are subject to reduced rate of SST at the rate of 3%.

Through amendment introduced vide recent Sindh Finance Act, 2024, intra-city (within city) transportation or carriage of goods have also been brought into the scope of taxable service heading 9836.0000, therefore, the description of the respective entry in the reduced rating

notification of 2013 has also been amended accordingly w.e.f. July 01, 2024 to cover both inter-city and intra-city transportation within its scope.

Moreover, corresponding changes have also been made in the relevant special procedure Rules through notification no. SRB-3-4/27/2024 dated June 29, 2024 **(Tariff heading 9836.0000)**

iii. Vehicle Towing Services:

Vehicle towing services were not taxable prior to amendment brought through Sindh Finance Act, 2024. Said services are now covered under the scope of Tariff Heading 9853.0000 for which applicable SST rate is reduced rate of 5% without input tax adjustment. **(Tariff heading 9853.0000)**

3. No. SRB-3-4/25/2024 dated June 29, 2024

As per notification no. SRB-3-4/19/2021 dated June 29, 2021, service provided by recruiting agents under tariff heading 9805.6000 for recruitment of person or group of persons for employment outside Pakistan was chargeable to SST at the reduced rate of 5% during the tax period 2021-22 to 2023-24, subject to certain specified conditions including e-deposit of tax liability pertaining to tax period upto June 2022 by July 15, 2022 and filing of outstanding sales tax returns for the tax period prior to June 2022 by July 20, 2024.

Now, SRB through notification no. SRB-3-4/25/2024 dated June 29, 2024 has extended the application of reduced rating on such services upto 2025-26 and also extended the period and due dates of payment of outstanding sales tax liability and of filing of sales tax returns for tax period upto June 2024, to July 15, 2024 and July 20, 2024 respectively.

4. No. SRB-3-4/26/2024 dated June 29, 2024:

Consequent to chargeability of SST on intra-city transportation or carriage of goods through the Sindh Finance Act, 2024, corresponding amendments have been made under Sindh Sales Tax Special Procedure (Transportation or Carriage of Petroleum Oils through Oil Tankers) Rules, 2018 to align and extend the scope of aforesaid Rules to intra-city transportation or carriage of petroleum oils through oil tankers.

5. No. SRB-3-4/27/2024 dated June 29, 2024

Certain amendments have been made under the Sindh Sales Tax on Services Rules, 2011 through aforesaid notification which are summarized as under:

A. Amendments in existing rules

- Registration and Deregistration (Rule 5)

Through aforesaid notification, SRB has prescribed the requirement for filing of 'business' bank account certificate for the purpose of applying for registration electronically. Previously, the aforesaid rule referred to the requirement of bank account certificate only.

- Change in particulars of Registration (Rule 7)

Registered person was earlier required to intimate to SRB for change in particulars of registration in advance or within 15 days from such change in prescribed Form. Through aforesaid notification, the requirement for intimating SRB in advance is abolished.

- Special procedure for payment of tax on franchise services and intellectual property services (Rule 36)

A registered service provider may elect for standard rate of tax instead of reduced rating through filing of option in prescribed Form F at SRB web portal within 21 days from the date of commencement of financial year or 14 days before the commencement of economic activity.

Pursuant to the recent change in standard rate of SST from 13% to 15%, SRB through aforesaid notification, has inserted a proviso clarifying that the election of option for standard rate of 13% submitted before June 30, 2024 shall remain valid in respect of change in standard rate to 15% for tax periods from July 2024 and onwards.

- Services provided by Foreign Exchange Companies, Forex Dealers and Money Changer (Rule 40D)

Value of services involving exchange of currencies at the counter is increased from 20 paisa per hundred rupees equivalent, to 25 paisa. Further, SST is chargeable at the rate of 3% w.e.f. July 01, 2024 without input tax adjustment instead of standard rate.

- Services provided or rendered by hotels, motels, guest houses, clubs, restaurants, marriage halls and lawns & caterers etc (Rule 42)

Through the Sindh Finance Act, 2024, service provided by farmhouse are included in taxable services under tariff heading 9801.1000 and 9801.6000. The corresponding changes are also made in aforesaid Rules to include Farmhouses for the purpose of collection and payment of sales tax thereon.

Further, aforesaid Rules are also aligned with reduced rating of 8% on serving / supplying food where payment against tax invoices is received through debit or credit cards, mobile wallets or QR scanning. The option to avail standard rate at 15% is also available to service provider who request SRB in writing for election of option.

While filing sales tax return, registered person providing restaurant service shall clearly, specifically and separately indicate the particulars of the restaurant services

provided or rendered by him at the standard rate of 15% and at the reduced rate of 8%.

SRB also issued Circular no. 04/2024 dated June 30, 2024 explaining the relevant provisions relating to taxability of services provided by restaurants. Through the said circular, SRB has clarified that the input tax apportionment should be made in respect of output tax at reduced rate. It is further clarified that the POS integrated restaurants to modify their systems to accommodate the aforesaid changes.

- **Special procedure for payment of tax on construction services (Rule 42B)**

A registered service provider may elect for standard rate of tax instead of reduced rating through filing of option in prescribed Form C at SRB web portal within 21 days from the date of commencement of financial year or 14 days before the commencement of economic activity.

Pursuant to the recent change in standard rate of SST from 13% to 15%, SRB, through aforesaid notification, has inserted a proviso clarifying that the election of option for standard rate of 13% submitted before June 30, 2024 shall remain valid in respect of change in standard rate to 15% for tax periods from July 2024 and onwards.

- **Special procedure for payment of tax on ready mix concrete services (Rule 42BB)**

A registered service provider may elect for standard rate of tax instead of reduced rating through filing of option in prescribed Form R at SRB web portal, within 21 days from the date of commencement of financial year or 14 days before the commencement of economic activity.

Pursuant to the recent change in standard rate of SST from 13% to 15%, SRB, through aforesaid notification, has inserted a proviso clarifying that the election of option for standard rate of 13% submitted before June 30, 2024 shall remain valid in respect of change in standard rate to 15% for tax periods from July 2024 and onwards.

- **Procedure for collection and payment of sales tax on the services provided or rendered by persons or transport agencies engaged in the services of or in relation to inter-city transportation or**

carriage of goods by road or through pipeline or conduit (Rule 42G)

Consequent to chargeability of SST on intra-city transportation or carriage of goods through Sindh Finance Act, 2024 a corresponding change has been made in aforesaid Rule 42G through omission of the words 'inter-city' wherever used in the said Rule.

The Rule 42G contains a provision whereby a registered service provider may elect for standard rate of tax instead of reduced rating through filing of option in prescribed Form I at SRB web portal within 21 days from the date of commencement of financial year or 14 days before the commencement of economic activity.

Pursuant to the recent change in standard rate of SST from 13% to 15%, SRB through aforesaid notification, has inserted a proviso clarifying that the election of option for standard rate of 13% submitted before June 30, 2024 shall remain valid in respect of change in standard rate to 15% for tax periods from July 2024 and onwards.

- **E-hearing of appeals relating to Hyderabad and Sukkur regions of the SRB (Rule 57H)**

Facility of e-hearing is available at Hyderabad and Sukkur regional offices of SRB in relation to appeal filed by the person having place of business in the jurisdiction of Hyderabad and Sukkur regions of SRB. Now, through aforesaid notification, relevant Rule has been amended to extend the facility of e-hearing to all regional offices

B. Newly introduced Special Procedure Rules for certain services

- **Procedure for collection and payment of sales tax on the services provided or rendered by Medical practitioners and consultants (Rule 42FF)**

SRB through aforesaid notification has prescribed rules for collection and payment of sales tax on service provided by medical practitioners and consultants consequent to chargeability of SST on such services through the Sindh Finance Act, 2024. SST is chargeable at the rate of 3% on gross amount charged for the services provided by medical practitioners and consultants under

tariff heading 9815.1000 exceeding Rs. 3,000 per visit / consultation per patient.

SRB has also issued a Circular no. 07/2024 dated July 01, 2024 explaining the relevant provisions relating to taxability of services provided by medical practitioners and consultants in detail.

Through insertion of the above said Rule and the explanation provided through issuance of the above referred circular, SRB has prescribed procedure for charging and collection of Sindh sales tax in respect of services provided by medical practitioners and consultants under two different scenarios:

i. Where such services are provided at hospitals and clinics providing facility of consulting rooms or otherwise:

Where services are rendered by the medical practitioners and consultants using facility of consulting room or otherwise at hospitals or clinics, such hospitals or clinics being collecting agents in such case, shall be liable obtain registration with SRB (if not already registered) and charge /collect sales tax on such services provided by medical practitioner and consultants, besides discharging sales tax liability on their own taxable services.

ii. Where such services are provided by practitioners and consultants through private clinics:

Where services are rendered by medical practitioners and consultants through private clinics (i.e. in clinics other than the ones located in hospitals or clinics which provide facility of consulting rooms or otherwise), the medical practitioners and consultants shall be required to obtain registration and charge sales tax on such services.

Provision of the SSTA pertaining to registration, issuance of sales tax invoice and maintenance of record shall apply to the medical practitioners and consultants or hospitals and clinics being collecting agents. Further, such persons are required to deposit the sale tax by 15th of the month following the tax period to which it relates and filing of return by 18th day of said month.

- Procedure for collection and payment of sales tax on the services provided or rendered by hospitals and clinics (Rule 42K)

SRB has prescribed special procedure rule for collection and payment of sales tax on services provided by hospitals and clinics consequent to chargeability of SST on such services through the Sindh Finance Act, 2024.

By virtue of the above discussed reduced rating and exemption notifications, SST is chargeable at the rate of 3% on gross amount charged for the services provided by hospitals and clinics for provision of rooms / beds for their indoor patients and day-care patients where per day charges (including allied fixed charges, if any) for such room / bed exceeds Rs. 25,000 per bed / room per day. No option is available to charge SST at standard rate of 15%.

Provision of the SSTA pertaining to registration, issuance of sales tax invoice and maintenance of record shall apply to the hospitals and clinics providing taxable services. Further, such persons are required to deposit the sale tax by 15th day of the month following the tax period to which it relates and filing of return by 18th day of said month.

SRB has also issued Circular no. 08/2024 dated July 01, 2024 explaining the relevant provisions relating to taxability of services provided by hospital and clinics in detail.

- Procedure for collection and payment of sales tax on education services (Rule 42L)

SRB through aforesaid notification has prescribed special procedure rule for collection and payment of sales tax on education services consequent to chargeability of SST on such services through the Sindh Finance Act, 2024.

By virtue of the above discussed reduced rating and exemption notifications, SST is chargeable at the rate of 3% on gross amount of fee or charges exceeding Rs. 500,000 per annum per student. The gross amount includes tuition fee, admission fee, examination fee, laboratory fee, library charges and all other fixed charges including those of non-academic activities, but

excluding the refundable amount of security deposit, received by the person providing education services. No option is available to charge SST at standard rate of 15%.

The Rules further provides that where fee / charges are collected on monthly, quarterly or semester or any other basis, the aforesaid threshold of Rs. 500,000 per annum shall be applied proportionately for the purpose of determining taxability of services and tax shall be paid accordingly by the prescribed due dates.

Provision of the SSTA pertaining to registration, issuance of sales tax invoice and maintenance of record shall apply to the person providing taxable education services. Further, such persons are required to deposit the sale tax by 15th of the month following the tax period to which it relates and filing of return by 18th day of the said month.

SRB also issued Circular no. 06/2024 dated June 30, 2024 explaining the relevant provisions relating to taxability of education services in detail.

- **Procedure for collection and payment of tax on distribution services (Rule 42M)**

The matter of chargeability of sales tax on distributions services had been a contentious issue and under litigation proceedings in respect of the petitions filed by various traders and distributors in the last few years.

Recently, on January 01, 2024, the Supreme Court of Pakistan while dismissing petitions of the traders and distributors challenging the collection of Sindh sales tax on Supply Chain Management or Distribution (including Delivery) Services, reinforced the stance taken by Sindh Revenue Board (SRB).

Through aforesaid notification, SRB has now prescribed special procedure rule for collection and payment of sales on distribution services.

The aforesaid Rule, prescribes value of taxable services for distribution of goods as an amount equal to 8% of the gross margin of such distributor. The term 'gross margin' explained to include trade margin, trade discount, trade offer, commission, rebate or any other incentive as are received by distributor in relation to distribution services.

The SST is chargeable on distribution services at the standard rate of 15% except for services provided in relation to distribution of drugs registered under the Drugs Act, 1976 which is chargeable at the reduced rate of 5% through notification no. SRB-3-4/24/2024 dated June 29, 2024.

Provision of the SSTA pertaining to registration, issuance of sales tax invoice and maintenance of record shall apply to person providing distribution services. Further, such persons are required to deposit the sale tax by 15th of the month following the tax period to which it relates and filing of return by 18 the month.

6. No. SRB-3-4/28/2024 dated June 29, 2024

Certain amendments have been brought under the Sindh Sales Tax Special Procedure (Withholding) Rules, 2014 through aforesaid notification which are summarized as under.

- **Persons prescribed as 'withholding agents' (Sub-Rule (2) of Rule 1)**

Autonomous bodies, public sector organizations, including public corporations, state owned enterprises and regulatory bodies and authorities were prescribed as withholding agent under clause (b) and (c) of sub-rule (1) of the aforesaid withholding rules which are liable to withhold sales tax at 4/5th of the SST charged.

By amending clause (b) of sub-rule (1) of the above said withholding rules, SRB has revamped the categories of such withholding agents thereby to cover under the above list only such of the autonomous bodies, state-owned enterprises and regulatory bodies and authorities, as are not incorporated under the Companies Act, 2017.

The rationale behind such change may be that the companies registered under the Companies Act, 2017 are already covered clause (e) of sub-rule (2) of Rule 1 of the said rules with responsibility to apply general withholding at 1/5th of the SST charged.

- **Four-fifth withholding of sales tax as per invoice (Sub-rule (4A) of Rule 3)**

Corresponding amendment has been made in sub-rule 4A of Rule (3) consequent to amendment in category of withholding agent as aforesaid which require autonomous bodies, state-owned enterprises and regulatory bodies and authorities as are not incorporated under the Companies Act, 2017 to withhold sales tax equivalent to four-fifth of Sindh sales tax amount shown on invoice.

- **Maintaining record by withholding agent (Sub-rule (2) of Rule 5)**

In line with the amendment brought through Sindh Finance Act, 2024 in section 27 of SSTSA (retention and production of records and documents), time limit specified for maintaining record by withholding agent for 8 years is restricted for the tax periods ending on or before June 30, 2025. Whereas, period of 8 year is reduced to 6 years for tax periods starting from July 01, 2025.

7. No. SRB-3-4/29/2024 dated June 29, 2024

Certain amendments have been brought under the Sindh Sales Tax Special Procedure (Online Integration of Business) Rules, 2022 through aforesaid notification which are summarized as under.

- **Record, Access and Examination (Rule 9)**

SRB through aforesaid notification, has empowered an authorized officer to also check the documents validating the transactions made through digital modes i.e. debit or credit cards, mobile wallets

or QR scanning to ensure functioning and operations of the POS.

- **Reporting of failure to transfer sale or bill data to the Board (Rule 11)**

Facility is currently available to the customers of SRB's integrated person to send the invoice number through SMS number 9697 for the purpose of verification that the invoice issued to him has been duly communicated to Board's computerized system. As per amendment through aforesaid notification, the invoice number that may be sent by the customer through SMS for verification in the above manner shall be SRB's POS invoice number.

- **Automated / generation of Annexure C (Rule 14)**

The amended Rule requires the auto-generated Annexure-C to clearly and separately indicate the invoice amounts against each of the different tax rates as applicable.

8. No. SRB-3-4/30/2024 dated June 29, 2024

Through aforesaid notification, amendment has been made in Sindh Sales Tax Special Procedure (Tax on Specified Services) Rules, 2023 through which definition of specified services provided under Rule 2(1)(iv) is aligned with categories of taxable services listed in Table under Rule 3.

Moreover, the applicable rate of sales tax to be charged and collected by the collection agent at standard rate in respect of certain specified services, has been aligned with the recent revision of standard rate of tax from 13% to 15%.

B. Reported Decisions:

1. SALES TAX ON TOLL MANUFACTURING WILL REST WITH THE FBR. 2024 PTD 793

SINDH HIGH COURT M/S. TUFAIL CHEMICAL. VS PROVINCE OF SINDH.

Applicable provisions: 2(16), 2(33), 3 of Sales Tax Act, 1990 and 2(79), 3 of Sindh Sales Tax on Services Act, 2011

Brief facts:

In the instant case, Sindh High Court decided the matter of collection of sales tax on toll manufacturing which has been in dispute among the Federation and the Province of Sindh. The petitioners expressed their concern that Toll Manufacturing does not fall within the definition of service in any manner. The petitioners argued that there is no dispute that sales tax has to be paid; but whether it is to be paid to the Federation or the Province.

During the pendency of the petitions, meeting of National Tax Council (NTC) was held on June

9 2022 wherein, all Provinces as well as Federation were present and it has been agreed that sales tax on Toll Manufacturing will rest with the FBR. Further, on June 28, 2022 Province of Sindh issued notification through which, with effect from July 1, 2022 sales tax on services of Toll Manufacturing stands exempted; however, for the period before the exemption, the Province of Sindh claimed to charge Sales Tax on Toll Manufacturing which, as per the province, is a Service under the Sindh Sales Tax on Services Act, 2011.

Decision:

The Sindh High Court decided the appeal in favor of the petitioners on the ground that once it has been agreed by the Province that such collection of sales tax on Toll Manufacturing will rest with FBR, then admittedly, it is no more a service. It was further observed that there is no legal ground to justify that Toll Manufacturing was a service from the date of promulgation of the Sindh Sales Tax on Services Act, 2011 up to the date of exemption provided on July 1, 2022. The tax which has already been paid by the Petitioners to the Federation through FBR, in respect of toll manufacturing, is their final discharge of liability in respect of sales tax, (either under the Sales Tax Act, 1990 or under the Sindh Sales Tax on Service Act, 2011 Act), and they will not be obliged to pay any further sales tax on such activity.

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