YOUSUF ADIL
PACE ALIGNED...

Tax Bulletin

May 2023

50 Years
1972 ~ 2022
PACE ALIGNED...

Foreword

This publication contains brief commentary on Circulars and SROs issued during April 2023 and important reported decisions.

This document contains general information only, and Yousuf Adil, Chartered Accountants, is not by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional advisor.

Yousuf Adil accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

This publication can also be accessed on our Website.

www.yousufadil.com

Karachi
May 16, 2023

Contents

Executive Summary

Direct Tax – Reported Decisions			
Sr. no.	Reference	**Summary / Gist**	Page No.
1	2023 PTD 492	**SUBSECTION (4) OF SECTION 4 OF WWF ORDINANCE, 1971 REQUIRES WWF TO BE CHARGED THROUGH A WRITTEN ORDER THAT MAY BE FINALIZED ALONG WITH THE ASSESSMENT PROCEEDINGS** Lahore High Court (LHC) in its judgement held that WWF demand must be communicated through a notice in writing giving fair opportunity to the taxpayer for explanation before concluding it through an order.	7
2	2023 PTD 467	**COMMISSIONER APPEALS HAS THE POWER TO ONLY CONFIRM, MODIFY OR ANNUL THE ASSESSMENT ORDER.** Appellate Tribunal in its decision held that where an appeal is filed against an assessment order, Commissioner Appeals cannot remand back the case as section 129 authorizes him only to confirm, modify or annul the assessment order. Further, for making an addition under 111 of the Ordinance, the officer is required to issue a separate notice confronting the issue. Moreover, it was held that closing stock appearing in annexure F of the sales tax return of a taxpayer cannot be accounted for while computing additional liability of the taxpayer due to technical flaws in the annexure.	8
3	2023 PTD 556	**CLARIFICATION ON COLLECTION OF INCOME TAX AND SALES TAX AT IMPORT STAGE FOR BUSINESSES FALLING UNDER PROVINCIALLY ADMINISTERED TRIBAL AREAS (THE PATA).** For businesses falling under PATA, exemption certificate from income tax at import stage shall be applied and issued in the manner as prescribed by the FBR. Exemption from sales tax shall be applicable as per entry 151 of the Sixth Schedule to the Act.	9
4.	2023 127 Tax 1 (Trib.)	**MONITORING OF WITHHOLDING TAXES SHALL BE IN THE PRESCRIBED MANNER. ASSESSMENT PROCEEDINGS SHALL ALSO BE CONDUCTED WITH JUDICIOUS APPLICATION OF MIND.** Monitoring proceedings shall remain cognizant of the parameters defined by the Appellate Authorities and Honorable Courts. Assessment proceedings shall give effect of the facts of the case and opportunity of being heard to the assesse.	10

5	2023 127 TAX 12	**INFORMATION REQUESTED WITHOUT POINTING OUT DISCREPANCY IS NOT ALLOWED** The ATIR held that the appellant never confronted discrepancies and specific instances of default to the respondent. Information required without identifying discrepancy falls under the meaning of fishing and roving inquiry which is not allowed as held by Supreme Court of Pakistan in case law reported as 2021 SCMR 1325.	11
6	2023 PTD 499	**ORDER PASSED WITHOUT TAKING COGNIZANCE OF THE FACTS ON RECORD IS NOT LAWFUL** The ATIR held that the CIRA did not pass the impugned order after application of judicial mind as the Order passed by ACIR cannot be declared as null ignoring the fact that the show-cause notice by the ACIR properly confronted the issues and specific payments were called into question as per record.	11
7	Civil Petitions No. 3286 To 3289 of 2017	**DETERMINATION OF PERMANENT ESTABLISHMENT FOR PROVISION OF SERVICES TO A LOCAL COMPANY BY NON-RESIDENTS** Provision of service to a local company in Pakistan by employees of non-resident company (resident of Netherlands) for the period less than four months does not constitute permanent establishment in Pakistan.	12

Sales Tax Act, 1990

S.No.	Reference	Summary / Gist	Page No.
Sales Tax Act			
1.	STGO 10 of 2023	FBR identified further 37 persons as Tier-1 Retailers.	14
2.	SRO 297(I)/2023	Fixation of minimum value of steel products for levying sales tax.	14
Sindh Sales Tax on Services			
1	SRB-3-4/17/2023	SRB has added truck aggregator and car rental service in the jurisdiction of Commissioner-II.	16
2	SRB-3-4/24/2023	SRB has revised fee for issuing duplicate copy of notices, orders etc.	16

Income Tax Ordinance, 2001

Direct Tax – Reported Decisions

1. **SECTION 4(4) OF WWF ORDINANCE, 1971 REQUIRES WWF TO BE CHARGED THROUGH A WRITTEN ORDER THAT MAY BE FINALIZED ALONG WITH THE ASSESSMENT PROCEEDINGS**

   2023 PTD 492
   LAHORE HIGH COURT

   COMMISSIONER INLAND REVENUE LAHORE
   VS
   MESSRS DESCON ENGINEERING LIMITED, LAHORE

   APPLICABLE SECTIONS: 120, 122, 133 AND 177 OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE)

   2(f) AND 4 OF THE WORKERS WELFARE FUND ORDINANCE, 1971 (WWF ORDINANCE)

Brief Facts:

The taxpayer, being an industrial establishment in the instant case filed its return of income for Tax Year 2006 along with the proof of payment of WWF for the said tax year. The return of income of the taxpayer was selected for audit under section 177 of the Ordinance. The tax officer while passing an order for amendment of assessment under section 122 of the Ordinance levied WWF charge of Rs. 11,885,126. The taxpayer filed appeal before the Commissioner Appeals on the basis that the amount of WWF paid by the taxpayer was not confronted in the show cause notice issued and the charge was directly imposed in the order passed for amendment of assessment.

The Commissioner Appeals remanded back the case for reassessment with the directions to provide an opportunity of being heard to the taxpayer. Discontent with the decision of the Commissioner Appeals, the taxpayer filed an appeal before the Appellate Tribunal, which decided the case in favour of the taxpayer on the basis that a written order under section 4 of the WWF Ordinance shall be passed and deleted the tax demand created through the order of the assessing officer.

Being aggrieved by the decision of the Appellate Tribunal, the tax department filed reference application before LHC raising the following questions of law:

- Whether on the facts and circumstances of the case, learned Tribunal was justified to delete the amount payable on the ground that no written order was passed under section 4 of WWF Ordinance, 1971 whereas taxation officer assessed income vide written order under section 122(1) of the Ordinance and computed amount payable in the said Order?

- Whether on the facts and circumstances of the case, the framework of WWF Ordinance requires independent adjudication of assessed income under the Ordinance followed by an independent separate order for determination of amount payable to fund under WWF Ordinance, whereas the said amount is to be computed on the basis of income assessed under income tax law and recovery of same is also to be made under said law?

Decision:

LHC in its decision held that section 4 of WWF Ordinance provides for the mode of payment of WWF and recovery from an industrial undertaking. Sub-section 4 of section 4 specifies that where an assessing officer does not agree with the amount paid as WWF by an industrial undertaking, he shall determine the actual amount payable through an order in writing. The assessing officer, however, shall observe principle of natural justice and fair trial especially the principle of audi alteram

partem i.e. no one should be condemned unheard before passing an order. It is required to issue a proper notice confronting the matter and provide a fair chance of explanation.

However, it was held that a separate notice is not required to confront the levy of WWF and the same can be finalized during the assessment proceedings. Reference in this regard was placed on the decision of Karachi High Court in the case of Commissioner of Income-Tax vs. Messrs. Kamran Model Factory (2002 PTD 14).

Based on the above, LHC confirmed that the Appellate Tribunal rightly deleted the WWF demand created by the assessing officer without the matter being confronted in the show-cause notice. It was also held that WWF can be levied and finalized along with the assessment proceedings.

2. COMMISSIONER APPEALS HAS THE POWER TO ONLY CONFIRM, MODIFY OR ANNUL THE ASSESMENT ORDER.

2023 PTD 467
APPELLATE TRIBUNAL INLAND REVENUE

MESSRS KBS STEEL, GUJRANWALA
VS
THE COMMISSIONER INLAND REVENUE, LTO, LAHORE

APPLICABLE SECTIONS: 35, 111, 122 AND 129 OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE)

Brief Facts:

Show-cause notice was issued to the taxpayer in respect of a difference identified between the closing stock declared in the Annexure-F of sales tax return for the month of June 2019 with that declared in the return of income for the relevant tax year. Closing stock declared in the return of income was Rs. 185 million less than the stock declared in the sales tax return. The notice required the taxpayer to explain the source of the excess purchases failing which purchases would be added to his income under section 111(1)(c) of the Ordinance.

After submission of response by the taxpayer, the tax officer passed order under section 122(1) of the Ordinance with an addition of Rs. 185 million in the income. Being aggrieved by the decision of the assessing officer, the taxpayer filed appeal before the Commissioner Appeals, who remanded back the case for denovo proceedings. The taxpayer preferred an appeal before the Appellate Tribunal on the following grounds:

- Commissioner Appeals only has the authority to confirm, modify or annul the assessment order and cannot remand back the case to the original assessing officer to fill out lacunas and improve flagrant errors therein;

- No definite information was acquired through audit or otherwise as it is not mentioned in the impugned order or the notice under section 122(9) of the Ordinance without which jurisdiction under section 122(5) of the Ordinance cannot be exercised;

- Non-issuance of separate notice for making addition on alleged suppressed purchases under section 111(1)(c) of the Ordinance is illegal; and

- Annexure F of the sales tax return cannot be made basis for calculating stocks at year end for income tax purposes due to certain legal flaws and factual lacunas.

Decision:

The Appellate Tribunal decided the case in favour of the taxpayer. The decision was made on the basis that section 129 of the Ordinance limits the power of Commissioner Appeals only to confirm, modify or annul the order where an assessment order is passed. Reference in this regard was placed on judgments in the case of 2017 PTD 1663 and 2013 PTD (Trib.) 1288.

It was further held that no addition under section 111 can be made without independent, specific and separate notice with specification of relevant clauses and subsection of section 111 of the Ordinance. Reliance in this regard was placed on the judgment of Lahore High Court in case of Commissioner Inland Revenue, Faisalabad vs. Faqir Hussain and

other (2019 PTD 1828) wherein it was held that non-issuance of proper notice in order to invoke provisions of section 111 cannot be taken lightly and its non-compliance may lead to render the proceedings not in conformity with or according to the intent and purpose of law.

Regarding the statistical infirmities, it was held that annexure "F" is only meant for summary of input tax and excess carry forward amount of sales tax credit. None of the provisions of the Sales Act, 1990 or of the Ordinance has purported to deem these figures of carry forward summary to be the closing stocks as it has miserably failed to serve as a stock statement of a taxpayer/appellant. On the basis of above, the taxpayer's appeal was allowed and order of the officer was vacated.

3. CLARIFICATION ON INCOME TAX AND SALES TAX AT IMPORT STAGE FOR BUSINESSES FALLING UNDER PROVINCIALLY ADMINISTERED TRIBAL AREAS

2023 PTD 556
PESHAWAR HIGH COURT
MESSRS SOHAIL STEEL GL SHEET COMPANY
VS
FEDERATION OF PAKISTAN THROUGH SECRETARY FINANCE AND REVENUE DIVISION, ISLAMABAD

APPLICABLE SECTIONS: 148 AND 159 OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE)

Brief Facts:

Various taxpayers running their businesses/industries being registered with Federal Board of Revenue (FBR) within the Provincially Administered Tribal Area (PATA) by manufacturing/selling/ purchasing different kinds of goods and were free from imposition of income tax and sales tax by way of applicable provisions of the Ordinance and the Sales Tax Act, 1990 (the Act).

During the period of such exemption, the Peshawar High Court held in a judgment that exemption from income tax leviable at import stage would be available subject to exemption certificate from FBR. Subsequently, FBR through circular standardized procedure for operationalization of exemptions under the Ordinance. Meanwhile, consequent to 25th amendment in the Constitution of Pakistan, all such provisions of the Ordinance that entitled the subject persons exemption from tax were omitted except the deduction or collection of some specified taxes under the Ordinance. However, due to unavailability of relief in the form of an exemption certificate despite the fact that every import consignment passes through a monitoring process, the petitioners approached the Court with the following prayers to invoke constitutional jurisdiction in the instant cases:

- Exemption certificate from tax collection at import stage shall be issued on one time basis valid up to June 30, 2023.

- Absence of above exemption certificate shall not affect the right of exemption from levy of sales tax under Entry no 151 of the Sixth Schedule of the Act.

- Circular describing the mechanism for claiming exemption from levy of income tax at import stage shall be declared void being contrary to the procedure laid down under Entry no 151 of the Sixth Schedule of the Act.

Decision:

The Peshawar High Court dismissed all the connected petitions involving common question of law and facts in the following manner:

- After promulgation of Finance Act 2021, relevant provisions or clauses under the Ordinance have been omitted, therefore, subject taxpayers are required to obtain income tax exemption certificate under the Ordinance in the manner prescribed by FBR.

- Exemption from levy of sales tax under Entry no 151 of the Sixth Schedule of the Act is intact and has no connection with collection of income tax at import stage in the instant cases.

- Relaxations have already been announced with respect to conditions of Installed Capacity Determination Certificate that was conceived as difficult compliance requirement, therefore, prayer regarding the procedural hindrances is infructuous.

4. MONITORING OF WITHHOLDING TAXES SHALL BE IN THE PRESCRIBED MANNER. ASSESSMENT PROCEEDINGS SHALL ALSO BE CONDUCTED WITH JUDICIOUS APPLICATION OF MIND. (2023) 127 TAX 1

APPELLATE TRIBUNAL INLAND REVENUE, LAHORE BENCH, LAHORE
MESSRS THE BANK OF PUNJAB, LAHORE
VS
THE COMMISSIONER INLAND REVENUE, LTU, LAHORE

APPLICABLE SECTIONS: 18(3), 22(12), 151, 161, 161(1), 161(2), 122(5A) AND 221 OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE), RULE 34 OF THE INCOME TAX RULES, 2002 (THE RULES)

Brief Facts:

The Assessing Officer (AO) examined audited accounts of the appellant and issued show cause notice to reconcile the tax deduction on payment of expenses for the tax year 2007 to 2012. The appellant raised the legal objections and filed replies on merit which were turned down and accordingly orders were passed by the AO.

In addition, the appellant was served assessment order for tax year 2007 on account of alleged deduction of depreciation of leased assets against taxable income of the subject tax year. Based on factual position, the appellant filed rectification application which was also rejected by the AO.

Being aggrieved by orders for both monitoring proceedings and assessment proceedings of the AO, the appellant filed appeals before the CIRA. The CIRA dismissed the order in case of monitoring proceedings for tax year 2007 and remanded back the similar orders for tax year 2008 to 2012. Whereas CIRA confirmed the assessment order of AO and rejection of rectification application also. Subsequently, both department and the taxpayer filed appeals against the decisions of CIRA before the Appellate Tribunal Inland Revenue (the ATIR).

Decision:

The ATIR adjudicated the subject appeals as under:

- For tax year 2007, in respect of monitoring proceedings, the AO rightfully invoked the provisions of the Ordinance by identifying and confronting the parties in respect of which tax was not deducted. Accordingly, the burden of proof was on appellant to prove why tax was not deducted which it failed to discharge. In view of this fact, CIRA order was confirmed and appeal was dismissed.

- For tax year 2008 to 2011, it has been observed that AO has just taken figures from the audited accounts and shifted the entire burden on the appellant to show whether the required deductions were made or not. Thus, the AO has crossed the threshold set by the Honorable Supreme Court of Pakistan in a reported judgment over similar issue, therefore, appeals for these tax years are accepted.

- For tax year 2012, in respect of monitoring proceedings, AO just quoted a figure for alleged default without mentioning how this figure was worked out. This cannot be approved and, accordingly, alleged default is deleted and case is remanded back so that appellant can be provided an opportunity of being heard.

- For tax year 2007, in respect of assessment proceedings, AO observation regarding non-filing of deprecation chart is not understandable as there was no requirement of e-filing of depreciation chart under Rule 34 of the Rules nor could it have been done as no such mechanism was available at FBR's e-portal for tax year 2007. Further, rectification application was rightly placed to consider the impact of assessed unabsorbed depreciation carried forward. Had this impact taken into

account no disallowance can be warranted, therefore, assessment order and rejection order of rectification application are deleted accordingly.

5. INFORMATION REQUESTED WITHOUT POINTING OUT DISCREPANCY IS NOT ALLOWED
2023 127 TAX 12

APPELLATE TRIBUNAL INLAND REVENUE, MULTAN

COMMISSIONER INLAND REVENUE, WHT ZONE, MULTAN
VS
BANK AL HABIB LIMITED

APPLICABLE SECTIONS: 128(4), 151, 159, 161 OF THE INCOME TAX ORDINANCE, 2001 (THE ORDINANCE)

Brief Facts:

The Assessing Officer (the appellant) concluded proceedings of monitoring of withholding taxes against the taxpayer company (the respondent) on the premise that the information submitted is not sufficient and passed the impugned order which was challenged before CIRA. CIRA granted partial relief to the taxpayer whereby the withholding tax demand created on interest payments was deleted. The appellant challenged the actions of CIRA before ATIR on the ground that CIRA was not justified to admit any new evidence at appellate stage which was not earlier furnished by the taxpayer as per section 127(5) of the Ordinance. On the other hand, the respondent taxpayer contended that the record furnished to the tax department was examined by the CIRA and no new information was submitted to CIRA.

Decision:

The ATIR dismissed the appeal and decided the case in favor of the taxpayer in the following manner:

- The argument of appellant that CIRA was not justified to examine the record not earlier submitted is misconceived as the record in question was already submitted to the appellant; however, the same was not referred by the appellant in his order.
- Section 128(4) empowers CIRA to call for particulars based on record and documents and CIRA can even make further inquiry(s).
- The appellant was ought to point out discrepancies which were never confronted to the respondent. The appellant also failed to mention specific instances of default in his order. Information required in this manner falls under the meaning of fishing and roving inquiry which is not allowed as held by Supreme Court of Pakistan in case law reported as 2021 SCMR 1325.

6. ORDER PASSED WITHOUT TAKING COGNIZANCE OF THE FACTS ON RECORD IS NOT LAWFUL
2023 PTD 499

INLAND REVENUE APPELLATE TRIBUNAL, ISLMABAD
INLAND REVENUE, LTU, ISLAMABAD
Vs
WI-TRIBE PAKISTAN LIMITED, ISLAMABAD

APPLICABLE SECTIONS: 128(4), 129(1)(a), 152, 153, 161, 161(1)(b), 162, 205 OF INCOME TAX ORDINANCE, 2001 (THE ORDINANCE)

Brief Facts:

The instant appeal was filed by the ACIR (Appellant) against the order of CIRA who had annulled the order passed by the Appellant on the grounds of failure to specify payments whereon default was committed, creating of tax demand on the accrued expenses instead of the actual payments, and failure to determine applicability of withholding tax provisions. Feeling aggrieved from the impugned order, the appellant challenged the impugned order passed by CIRA before the ATIR on the following grounds:

a) The learned CIRA was not justified to annul the order passed under sections 161/205 of the Income Tax Ordinance, 2001 on account of non-deduction of tax against payments made to foreign Telecom Operators in respect of Internet charges.

b) That the learned CIRA was not justified to delete the demand without taking cognizance of the facts obtaining on record.

c) That the observation of the learned CIRA that payments liable to tax deductions were not identified is contrary to the contents of the show-cause notice issued to the taxpayer company.

Decision:

The ATIR observed that the show-cause notice by the ACIR properly confronted the matter and specific payments were called into question. ATIR further observed that the CIRA did not pass the impugned order after application of judicial mind as the Order passed by ACIR cannot be declared as null and void merely for the reason of failure to mention the names of the recipients. The ATIR remanded the case back to the ACIR to re-examine the record with respect to nature of payment, quantum of tax deduction and status of the parties to whom the payments were made.

7. PROVISION OF SERVICE TO A LOCAL COMPANY IN PAKISTAN BY EMPLOYEES OF NON-RESIDENT COMPANY FOR THE PERIOD LESS THAN FOUR MONTHS DOES NOT CONSTITUTE PERMANENT ESTABLISHMENT IN PAKISTAN CIVIL PETITIONS NO.3286 TO 3289 OF 2017

SUPREME COURT OF PAKISTAN
SNAMPROGETTI ENGINEERING B.V. (THE PETITIONER)
VERSUS
COMMISSIONER OF INLAND REVENUE ZONE-II, L.T.U, ISLAMABAD.

APPLICABLE PROVISIONS: SECTION 122(5A) OF THE ORDINANCE, ARTICLE 5 OF THE DOUBLE TAX TREATY BETWEEN PAKISTAN AND KINGDOM OF NETHERLANDS

Brief Facts:

The petitioner was a company registered in Netherlands, which entered into an engineering and procurement (of spare parts) contract with a local Company in Pakistan. As per the said contract, the petitioner was not responsible for construction and overall management activities of the project. The petitioner filed its returns declaring income pertaining to engineering services as exempt income on the premise that it does not have any permanent establishment in Pakistan and therefore, income arising from engineering services is not subject to tax in Pakistan as envisaged under Double tax treaty between Kingdom of Netherlands and Pakistan (the DTT).

The assessing officer (the AO) amended the assessment under section 122(5A) (the order) and imposed tax on income claimed as an exempt income. The order was challenged before CIRA who decided the appeal in favour of the petitioner and set aside the order on the ground that the petitioner does not have any permanent establishment in Pakistan and therefore, income under question was not chargeable to tax in Pakistan under the DTT. The AO challenged the CIRA order before ATIR and the latter accepted the appeal and decided the case in favour of the AO which was also upheld by the High Court; hence, the instant tax reference was filed before Supreme Court of Pakistan and following question was put before the Court by the petitioner:

a) Whether the income derived by the petitioner from providing engineering services to the local company is exempt from income tax in view of the DTT or is it liable to be taxed under normal tax regime of Pakistan?

Decision:

The Supreme Court of Pakistan decided the case in favour of petitioner. The Supreme Court set-aside the orders passed by the ATIR and the high court and restored the order of CIRA. The apex court held that:

a) Although the High Court recognized that the employees/representatives of the petitioner had stayed in Pakistan for 97 days only yet it endorsed the view of the ATIR that the services described in the contract were not dependent on the number of visits by the employees of the

petitioner or their physical presence at the site. The high court tried to link the engineering services rendered by the petitioner with the period of construction of plant i.e. period exceeding four months in aggregate within a year. The petitioner, therefore, was held to have a permanent establishment within the meaning of Clause 4 of Article 5 of the DTT. On the other hand, the Supreme Court held that the Commissioner (Appeals) had taken a correct approach to calculate the prescribed of period of four months necessary for any activity of furnishing services to constitute a permanent establishment as per Clause 4 of Article 5 of the DTT. There may be a number of periods, interspersed with breaks and the aggregate of these periods shall cross the threshold of four months within any twelve-month period to constitute a permanent establishment.

b) The income derived by the petitioner from the provision of engineering services to the local company being not attributable to a permanent establishment located in Pakistan is not taxable in Pakistan as long as it is not covered by other Articles of the Convention that would allow such taxation.

c) The petitioner is entitled to the exemption provided in the DTT, and the income derived by the petitioner from providing the afore-referred services to the local company is exempt from income tax in Pakistan because of not fulfilling the condition, as discussed in paragraph (a) above, necessary to constitute a permanent establishment as set out in Clause 4 of Article 5 of the Convention.

.

Sales Tax Act, 1990

A. Sales Tax General Orders (STGOs)

STGO No. 10 of 2023, DATED APRIL 10, 2023

Tier-l Retailers - Integration with FBR's POS System

FBR has adopted practice of notifying retailers (who have not yet integrated with FBR's system) as Tier-1 Retailer as defined in section 2(43A) of Sales Tax Act, 1990 (ST Act).

Vide the subject STGO, a list of further 37 persons identified as Tier-1 Retailers, has been placed on FBR's web portal requiring them to integrate with FBR's system by April 10, 2023. In case of failure to make the requisite integration by such notified persons, their adjustable input tax for the month of April 2023 would be disallowed up to 60% as per sub-section (6) of section 8B of the ST Act, without any further notice or proceedings, thus creating tax demand by the same amount.

Any of the notified retailers who claims itself to have been wrongly notified as Tier-1 Retailer and whose input tax adjustment has been reduced by 60%, may file online application on IRIS portal for removal of this restriction following the procedure laid down in STGO No. 17 of 2022, dated May 13, 2022 and the Commissioner would decide the case in this regard.

B. SRO

SRO 501(I)2023 DATED APRIL 20, 2023

Fixation of Value of Steel Products for Sales Tax Purpose

Through this SRO, FBR has revised minimum value of supply of locally produced steel goods as under:

Sr. No.	Goods	Previous Values (Per Metric Ton) Rs.	Revised Values (Per Metric Ton) Rs.
1.	Steel bars and other long profiles	164,037	225,000
2.	Steel Billets	133,813	195,000
3.	Steel Ingots/bala	126,000	180,000
4.	Ship plates	129,584	172,000
5.	Other re-rollable iron & steel scrap	125,688	160,880
6.	Re-meltable iron & steel scrap (72.04)	-	155,000

C. Reported Decisions

1. **APPEAL CAN NOT BE CLAIMED AS A RIGHT UNLESS PROVIDED BY THE STATUTE**

   2023 PTD 513

   APPELLATE TRIBUNAL INLAND REVENUE,

   COMMISIONER INLAND REVENUE, SIALKOT
   Vs.
   M/S. GENERAL FAN COMPANY PRIVATE LIMITED

   Applicable Provisions: Sections 40B and 46 of the Sales Tax Act, 1990 (ST Act)

Brief Facts:

On April 10, 2019, FBR posted officers at business premises of the registered person under section 40B of the ST Act in order to monitor production, sales of taxable goods and their

stock position. The registered person preferred an appeal before ATIR under section 46 of the ST Act along with stay application. The tribunal, granted interim relief to the registered person and suspended operation of the impugned order. Feeling aggrieved, the department filed an application before the tribunal for vacation of the stay order on the premise that appeal before ATIR under section 46 of the ST Act cannot be filed against an order passed by the Board under section 40B of the ST Act.

Decision:

The matter was decided by the Tribunal in favour of the department by giving observation that section 46 identifies the orders which are appealable and the order passed under 40B is not appealable under section 46 of the ST Act, therefore, the appeal filed against the order of posting officer under section 40B of the ST Act is not maintainable by law.

2. A PERSON CAN NOT BE PUNISHED FOR WRONG OF OTHERS

2023 PTD 552

APPELLATE TRIBUNAL INLAND REVENUE

M/S. TOWN CARRIER PRIVATE LIMITED Vs. COMMISIONER INLAND REVENUE, FAISALABAD

Applicable Provisions: Sections 4, 11, and 73 of the ST Act; SRO NO.1125(I)/2011

Brief Facts:

The Officer Inland Revenue (OIR) observed that the appellant has shown zero rated supplies of goods in terms of SRO 1125 to its various registered buyers, but after cross matching the sales tax return with buyers' returns it was revealed that the said buyers are null filer, non-filer or inactive. The appellant was issued an order to pay sales tax amounting to Rs.161,470 under section 11(3) along with default surcharge and penalty under the relevant provisions of the Act ibid.

Being aggrieved by the treatment, the appellant filed appeal before CIRA which was rejected. The appellant then preferred an appeal before ATIR. The learned AR of the appellant stated that the responsibilities of the appellant to issue proper sales tax invoices of the goods, declare them in its sales tax returns and to receive the payment through banking channel have been duly met and any default on part of the buyers for not showing purchases in their sales tax return cannot be made basis for creating sales tax liability on account of output tax against the appellant.

Decision:

The Tribunal decided the matter in favour of the appellant by placing reliance on judgement of Hon'ble High Court Lahore (PTCL 2019 CL 78) whereby it is settled law that no one should suffer for the acts of another. Penalty should be imposed on the buyers for not filing their sales tax returns instead of creating output tax liability on the appellant.

Sindh Sales Tax on Services Act, 2011

Notifications

SRB-3-4/17/2023 DATED APRIL 5, 2023

Addition of services in the Jurisdiction of Commissioner-II

SRB through its notification has added following services in the jurisdiction of Commissioner-II by amending notification SRB-3-4/29/2022 dated August 5, 2022:

i. Services provided or rendered by truck aggregators and the services provided or rendered by the owners or drivers of the trucks or other cargo transportation vehicles using the services of a truck aggregators.

ii. Rent a Car and Automobile Rental Services

SRB-3-4/24/2023 DATED APRIL 27, 2023

Revision of fee for providing attested duplicate copy of notices, orders etc.

Through this notification, SRB has enhanced the fee for obtaining attested duplicate copy in terms of section 77 of the Sindh Sales Tax on Services Act, 2011 (SSTSA) of any document of the registered person or of any notice or order, including a show cause notice, assessment order, Order-in-Original, or Order in Appeal, and Order-in-revision relating to the said registered person, by amending notification no. SRB-3-4/5/2013 dated June 17, 2013 issued under section 16 of the SSTSA.

Previous Fees	Revised Fees
Rs.200 per page of the document.	Rs.1000/=per document or Rs.250/= per page of the document, whichever is higher

Baluchistan Sales Tax on Services Act, 2015

Notification

BRA/HQ/22-23/29 DATED APRIL 14, 2023

Exemption on Payment of Sales Tax for the Services of Toll Manufacturing

Through this notification, the Baluchistan Revenue Authority has exempted Toll Manufacturing Services from Baluchistan sales tax with immediate effect.

Contact us

For more information, you may contact:

Atif Mufassir
Partner - National Leader Tax & Legal
Email: amufassir@yousufadil.com

Zubair Abdul Sattar
Partner Tax & Legal
Karachi office
Email: zsattar@yousufadil.com

Rana Muhammad Usman Khan
Partner
Lahore office
Email: rmukhan@yousufadil.com

Imran Ali Memon
Partner Tax & Legal
Karachi Office
Email: immemon@yousufadil.com

Arshad Mehmood
Senior Advisor Tax & Legal
Karachi office
Email: amehmood@yousufadil.com

Sufian Habib
Director Tax & Legal
Islamabad office
Email: sufianhabib@yousufadil.com

Our offices

Karachi
Cavish Court, A-35, Block 7 & 8
KCHSU, Shahrah-e-Faisal
Karachi - 75350, Pakistan
Phones: + 92 (21) 34546494-97
Fax : + 92 (21) 34541314
Email: sghazi@yousufadil.com

Islamabad
18-B/1
Chohan Mansion, G-8 Markaz
Islamabad, Pakistan
Phones: + 92 (51) 8350601, + 92 (51) 8734400-3
Fax: + 92 (51) 8350602
Email: shahzad@yousufadil.com

Lahore
134-A, Abubakar Block
New Garden Town, Lahore, Pakistan
Phones: + 92 (42) 35913595-7, 35440520
Fax: + 92 (42) 35440521
Email: rmukhan@yousufadil.com

Multan
4th Floor Mehr Fatima Tower,
Opposite High Court,
Multan Cantt, Multan, Pakistan
Phones: + 92 (61) 4571131-2
Fax: + 92 (61) 4571134
Email: rmukhan@yousufadil.com