

Sales Tax Act, 1990

Significant amendments

KIBOR

Section 2 (14A)

The Finance Bill seeks to insert the definition of "KIBOR" as Karachi Inter Bank Offered Rates as applicable on the first day of each quarter of the financial year.

The definition of KIBOR has been introduced as the levy of default surcharge and the amount to be paid on delayed refunds are proposed to be linked to KIBOR.

Adjustable input tax

Section 8B (2)

Presently, as per section 8 B(2) any input tax in excess of 90% of the output tax is adjustable subject to conditions given under this section. However, section 8B(3) also entitles a registered person for refund of sales tax.

The Finance Bill now proposes to remove this inconsistency by amending section 8B(2) to take cognizance of the above.

Assessment of Tax

Section 11(4)

The Finance Bill proposes to reduce the time period for the issuance of order from 240 days (i.e. 120 days initial, further extendable for additional 120 days) to 180 days (i.e. 120 days initial, further extendable for additional 60 days).

However, the period during which any case will remain adjourned on

the request of the registered person or due to any other appellate proceedings, will be excluded when calculating the given time limit.

This change will help in speedy settlement of assessment proceedings.

Tax Invoices

Section 23

As a step towards further documentation of the economy, the Finance Bill proposes to amend section 23, requiring registered persons to disclose on their sales tax invoices NTN or CNIC numbers of its unregistered customers.

Retention of record and documents for five years

Section 24

At present the Act requires registered persons to retain their records for a period of five [05] years after the end of the tax period to which such record relate.

The Finance Bill now seeks to increase the time limit for retention of sales tax records beyond five [05] years, that is, until such time that pending litigation is disposed of by appellate forums.

Offences and penalties

Section 33

Under section 40B, FBR is empowered to post an officer of sales tax to the premises of any registered person or class of persons to monitor production, sale of taxable goods and stock position; however provisions for penal action do not exist in case of any hindrance caused in respect of such posting.

The Finance Bill now seeks to impose a penalty of Rs. 25,000 or 100 percent of the tax involved whichever is higher on the person who denies or obstructs the posting of any sales tax officer by FBR or the Collector.

Default surcharge

Section 34(1)

Additional sales tax is payable at 1.5 percent per month for the period of default. Further, if the default is on account of a tax fraud, the rate of additional tax is 2 percent per month of the amount of tax evaded.

The Finance Bill now proposes to impose uniform additional tax at KIBOR + 3 percent per annum in case of any erroneous default or on account of a tax fraud.

Recovery of tax not levied or short-levied or erroneously refunded

Section 36

The Finance Bill proposes to reduce the time period for the issuance of order for the recovery of tax not levied or short levied or erroneously refunded from 240 days (i.e. 120 days initial, further extendable for additional 120 days) to 180 days (i.e. 120 days initial, further extendable for additional 60 days).

However, the period for which the proceedings remains adjourned on the request of the registered person or due to any other appellate proceedings, will be excluded when calculating such time limit.

The foregoing change will result in speedy settlement of related tax proceedings.

Power to Adjudicate

Section 45

The Finance Bill seeks to enhance adjudication powers of the Additional Collector, Deputy Collector, Assistant Collector and Superintendent/ Senior Auditor by giving them the authority to adjudicate any case regarding assessment of tax, short paid amount recoverable without notice

and recovery of tax not levied or short levied or erroneously refunded.

The Finance Bill also seeks to limit powers of the Deputy Collector to adjudicate the cases involving tax amounts not exceeding Rs. 2.5 million.

Powers of FBR and the Collector to call for records

Section 45A

The Finance Bill seeks to reduce the time limit for issuance of an order by FBR or the Collector from 5 years to 3 years from the date of the original decision or the date of order of a subordinate officer.

Appeals

Section 45B

The Finance Bill proposes to reduce the time period for issuance of an appellate order by the Collector (Appeals) from 240 days (i.e. 120 days initial, further extendable for additional 120 days) to 180 days (i.e. 120 days initial, further extendable for additional 60 days).

However, the period during which a case remains adjourned on request of the registered person or due to any other appellate proceeding, will be excluded when calculating such time limit.

The foregoing change will result in speedy settlement of appeal proceedings.

Appeals to Appellate Tribunal

Section 46

The Finance Bills seeks to amend the procedures for admitting, hearing and disposing of appeal by the Appellate Tribunal to bring it in line with the procedure laid down under the Customs Act, 1969.

Alternate Dispute Resolution

Section 47A(3)

The Finance Bill seeks to increase the time period for issuance of recommendations by the Alternate Dispute Resolution Committee from 60 days to 120 days.

The Finance Bill also seeks to insert a new sub-section to give powers to FBR to dissolve the Committee and form a new Committee if the previous one fails to give its recommendations to FBR within the stipulated 120 days.

Further the Bill also proposes to specify the time limit of 45 days for FBR for issuing an order after receipt of Committee recommendations.

Delayed refund

Section 67

Compensation for delayed refund is payable at the rate of 6 percent per annum of the amount of refund.

The Finance Bill now seeks to change the rate of compensation to KIBOR.

Sixth Schedule

Significant changes in the Sixth Schedule are summarized below:

- Sales tax exemption on import of potatoes and onions has been withdrawn.
- The PCT codes of pulses and rice mentioned at serial number 14, 19 and 23 have been changed to bring these in line with the Customs Tariff.
- Import of components of tractors, bulldozers and combined harvesters including assemblies and sub-assemblies but excluding consumables have been exempted from sales tax.

available under SRO 549(I)/2008 dated 11 June 2008.

SRO 473(I)/2009 dated 13 June 2009 has been issued to bring amendments in SRO 551(I)/2008 dated 11 June 2008 allowing sales tax exemption on cinematographic film exposed or developed. This exemption will be effective 14 June 2009.

SRO 476(I)/2009 dated 13 June 2009 has been issued decreasing the amount of sales tax on activation or energization of cellular handsets Rs. 250 from Rs. 500 per set.

Significant SROs

SRO 471(I)/2009 dated 13 June 2009 has been issued to exclude monofilament, sun shedding, nylon fishing net, other fishing net, rope of poly ethylene and rope of nylon; and tyre cord fabric from the purview of zero rating given under SRO 509(I)/2007 dated 9 June 2007 with effect from 14 June 2009.

SRO 472(I)/2009 dated 13 June 2009 has been issued to amend SRO 549(I)/2008 dated 11 June 2008 specifying tariff headings for import and supply of plant, machinery and equipment, wherein zero rating will no longer be