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FEDERAL BUDGET 2019

Significant Amendments in Indirect Tax Laws

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Overview

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- Revival of Withholding Tax
- Extension of Value Addition Tax
- Abolition of SRO 1125
- CNICs of Unregistered Buyer

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Overall Picture of Indirect Tax Measures

- Inflationary Impact; Sugar, Milk, Soft Drinks, Garments, Shoes, Cooking Oil, Cement, etc. costlier than before. CD on more than 1,650 raw materials and industrial inputs reduced – paper industry to enjoy more benefits.
- Restoration of Trust Deficit was much needed for a tax revenue target of Rs. 5555,000 million. Liquidity Issues not addressed. Automated Refunds ?
- Practical Measures for boosting exports, employment, protection of local industry missing. Imports of luxury items like chocolate, eatable, shaving razors, heavy cars, etc. should have been banned. Revenue Hit for the initial short run should be absorbed for a long term sustainability.
- Machinery parts and accessories used in the textile sector will be free from CD; it’s a mismatch since zero rating for textiles has been abolished in sales tax.
- FED imposed on cars; mismatch vis.a.vis sugar, milk, cooking oil, etc.
- CD waived on 18 medicinal inputs as well as on medicines for certain rare diseases. We should expect cheaper medicines in the next fiscal year.

Overall Picture of Indirect Tax Measures

- Extra Tax Abolished – Litigation on Further Tax on specified goods will cease to exist.
- Extension of Distortions under 3rd Schedule
- Abolition of SRO 1125 – FBR claims of industry misusing the benefits did not stand before Court of Laws. Piecemeal elimination approach would have been more appropriate
- Idealist but impractical measures for retailer taxation. Fixed Tax is the solution in the 1st stage.
- Administrative Measures unlikely to fetch the new revenue target. Delegation of Power to GOP vs. FBR still a corner for litigation, Audit Exercise expected to remain meaningless in the current scenario.
- Amendments in Section 13 are both serious and dangerous. GOP itself loosing its powers to grant exemptions in exceptional economic urgency.

Extension of Retail Price Regime – Imported Goods

Importers of 3rd Schedule items brought back in retail price regime. Importer will also be required to print or embossed retail price on each imported article or product and pay sales tax thereon.

Further tax will not be applicable on supply of such imported goods as provided under SRO 648 dated 9 July 2013.

Value Addition Tax may not be applicable as sales tax will be discharged at retail price instead on value of goods declared or determined at import stage.

It appears that FBR will issue guidelines for printing of prices and payment of sales tax on the stock available as on 30 June 2019.

Extension of Retail Price Regime – Goods Exposed to Extra Tax & Other Goods

All Sales Tax Special Procedures have been withdrawn (*SRO would be issued on 1 July*). Thus, majority goods presently specified under Chapter XIII of the Sales Tax Special Procedures Rules 2007 have been proposed to be transposed to the Third Schedule to the Act.

Extra tax was originally imposed on the unregistered supply chain. Thereafter, further tax was also introduced in the statute. This regime also facilitated significant tax planning models. Now, sales tax registration of all such supply chain would be an uphill task for GOP.

Onward taxation of goods lying with distributors, wholesalers and retailers on which extra tax was already paid would be an issue. These goods stand exempted even under new regime.

Extension of Retail Price Regime – Goods Exposed to Extra Tax & Other Goods

Certain goods like Auto parts and accessories, *Biscuits, confectionary, chocolates, toffees & candies, tiles, arms previously exposed to extra tax will now be subject to sales tax at standard rate.

Taxation of Biscuits, confectionary, chocolates, toffees & candies might be under 3rd Schedule.

Motorcycles & Auto Rickshaw have also been added to 3rd Schedule.

Taxation of Retailers

Tier-1 retailers whose shops are on 1,000 sf in area or more are within tax net.

Turnover Tax regime @ 2% has been abolished.

The retailers of specified goods (i.e. household electrical goods, paints) who were earlier exempt from registration and payment of sales tax have now come within the ambit of tax net. Registration through NADRA is not the solution; bridge Trust Deficit. Incentives like waiver from audit, quarterly returns, waiver from Sections 38, 40B should be offered to retailers to win their confidence.

A cash back up to 5% of tax paid on goods has been proposed for the customers of Tier 1 retailers, if they purchase against tax invoice. Gigantic task; besides taxpayers now ordinary citizens will also await refunds.

Commissioner Inland Revenue will issue an order over the person's classification as Tier-1 Retailer or otherwise. Relief for persons like service providers, schools, masjid, etc. who were wrongly facing this levy.

Revival of WHT for Registered Sector

Withholding tax in respect transactions between registered persons, which was abolished by the last outgoing Government, has again been restored. Logic still unclear since no revenue accrues to FBR in the present system.

Exporter has been excluded from the category of withholding agent.

Sales tax withholding on purchases from un-registered person enhanced from 1% to 5% on gross value instead of tax fraction formula. It will adversely affect CODB.

Exclusions from WHT are missing in the Finance Bill. SRO would be required on 1st July 2019 to cater this area.

Withholding Sales Tax is not applicable on services provided in Islamabad under Islamabad Capital Territory (Tax on Services) Ordinance, 2001 except for advertisement services. This fortifies our earlier understanding.

Extension of Value Addition Tax

Now manufacturers are also required to pay Value Addition Tax at import stage on goods imported for self-consumption except where custom duty @ 16 % or 20% has been paid at import stage. This appears to be mere revenue measure as VAT would be adjustable against output tax.

Issues for industries which maintain huge inventory and carry forward input tax.

Vide its judgment reported as 2017 PTD 130, Sindh High Court had held that VAT payable on commercial imports was illegal. It appears the legal lacuna pointed out in such case has been taken care of in the Finance Bill 2019.

Abolition of SRO 1125

Zero rated & reduced rates tax regime for 5 export oriented sectors i.e. textile, leather, carpets, sports and surgical goods was introduced from 1st January 2012 vide SRO 1125. Thereafter 19 amendments were made from time to time in SRO 1125.

Following impacts would emerge after abolishment of SRO 1125:

a) Goods which were notified under SRO 1125 now would restored at standard rate of sales tax i.e. 17%.

b) Supplies of finished articles of textile, textile made ups, leather and artificial leather made by retailers would be subject to sales tax @ 15% subject to integration with FBR online system where data is transmitted to the FBR's computerized system in real time. Mode and manner to be prescribed by FBR.

Abolition of SRO 1125

c) Zero rating on import of plant & machinery (not manufactured locally) by textile industry would be abolished and will be subject to sales tax @ 10%;

d) Ginned cotton, one of the major raw material of textile sector, will become subject to sales tax @ 10% under Eight Schedule. It was previously zero rated under SRO 1125 for textile sectors and exempted under Sixth Schedule for others;

e) Zero rating facility on "raw cotton" stands transposed with tax exemption under Sixth Schedule;

f) Zero rating facility on furnace oil, diesel oil, coal, electricity and gas will be withdrawn.

CNICs of Unregistered Buyer

Registered suppliers to disclose CNIC of the unregistered buyer on the face of tax invoice otherwise input tax will be debarred on pro-rata basis.

Identical measures were announced which introducing electronic Sales Tax-cum-Federal Excise return. Later on, such an amendment was also part of Finance Bill 2009. Withdrawn at the end because of being impractical though ideal in nature.

- The law does not define an ‘unregistered person’? How the supplier would ascertain whether the buyer is a person in default of his legal duties. If such a distinction is not clarified, it would mean that a common man (end consumer) going to market might also be asked to furnish his CNIC for his purchases.

- □ The law is silent as to whether it is the duty of the supplier to obtain CNIC of the buyer. What if the buyer refuses to share his identify details with the seller?

CNICs of Unregistered Buyer

- The proposed amendment does not specify how far the registered supplier would be accountable in relation to the authenticity of the NTN / CNIC furnished by his unregistered buyer.

- The determination / calculation of proposed disallowance of input tax on pro-rata basis would be almost an impossible task since input tax per unit of goods sold may neither be determined nor verified by tax authorities.

- An element of double jeopardy also exists in the proposed law. On one hand, the supplier charges further tax from an unregistered buyer as a penalty of not getting registration. On the other hand, he also faces disallowance of input tax if he doesn't mention such buyer's CNIC on sales invoice.

- The law does not elaborate how the businesses might avoid or tackle the misuse of CNIC / NTN. Today, CNICs of consumers are available by all Banks, Telecom Companies, Credit Card Agencies, etc. Misuse by unscrupulous elements resulting in distortion of FBR's database. This might lead to creation of tax demands against persons who did not purchase goods at all but whose CNIC / NTN was misused and reported on tax invoices.

شوق کا امتحان جو ہُوا سو ہُوا
جسم و جاں کا زیاں جو ہُوا سو ہُوا
سود سے پیشتر ہے زیاں اور بھی
دوستو، ماتمِ جسم و جاں اور بھی
اور بھی تلخ تر امتحاں اور بھی

(فیض)

THANK YOU