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Service Tax KTBA's Pre- Budget Proposals 2019-2020

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Recovery proceeding without one judicial scrutiny of tax demand:

- Under Section 66 of the SST Act, SRB can initiate the recovery proceedings of SST liability, immediately after service of order and without issuance of any recovery notice to taxpayers.
- Sufficient time to taxpayer is not given to exhaust an appropriate remedy e.g. filing of appeal, seeking stay against SST demand, etc.
- Section 66(1) allows to avail auto stay against demand after depositing 25% of total demand at the time of filing the appeal.

Proposals:

- In line with Federal Sales Tax Laws and other fiscal laws of the country, the recovery proceeding may be initiated after 30 days from date of service of order.
- Recovery proceeding may be initiated after proper service of notice to taxpayer instead of issuing notice directly to the banks.
- This will conform to the verdict of the superior courts to carry out at least one judicial scrutiny of the tax demand.

Higher amount of tax deposit for availing auto stay:

- Proviso to Section 66 stipulates that no notice will be issued to taxpayer during pendency of appeal before the Commissioner Appeals upon deposit 25% of tax due.
- The limit of 25% of tax due is quite excessive, particularly when the assessment order involves interpretation issues.

Proposal:

- In line with other Federal tax statutes, such percentage of tax due for seeking auto stay may be reduced to 10% from 25%.
- This may reduce quantum of filing of petitions before Sindh High Court for obtaining stay against demand.

Definitions of specific service categories not provided:

- Generally, the definitions of taxable services provided under Section 2 of SST Act help to comprehend the scope of such taxable services.
- SRB has not so far provided definitions of the terms **‘supply chain management’** and **‘software or IT based system development consultant’** as taxable under Second Schedule.
- Non-availability of definitions / scope of such services opens the doors of litigation and creates interpretation issues.

Proposal:

- The definitions of the service segments mentioned above may also be enacted to provide clarity on scope.

Incentivising the export of Services

- FBR sales tax laws allow zero-rating on exports to provide level playing field to exporters in the international market, who earn foreign exchange.
- Similarly, PRA also framed rules for export of service at zero rate subject to certain conditions.
- Exporters of taxable services generally becomes uncompetitive in international markets, resulting in loss of foreign exchange.

Proposal:

- In line with FBR and PRA laws, SRB may also frame Rules for incentivizing the export of services.

Third party / outsourced workers' salaries under Rule 42E of SST Rules:

- A proviso to Rule 42E(5) was omitted vide SRB notification dated 3 August 2017 to exclude the salaries and allowances of outsourced labour and manpower from the value of taxable services under the tariff heading 'Labour and Manpower Supply Services' (9829.0000)
- Cost of doing business of several industries is significantly affected, particularly where thousands of third party / contract workers are employed.

Proposal:

- Proviso may be restored with reasonable conditionalities like maintenance of payroll by the recipient of services, etc., as such SST should only be applicable on service charges of the labour / manpower contractors.

Withholding SST on acquiring services from unregistered persons:

- Under Rule 3(4) Sindh Sales Tax Special Procedure (Withholding) Rules 2014, withholding is prescribed at the applicable rate from un-registered service providers.
- In practice, such withholding Sindh sales tax is usually borne by the withholding agent.
- The object of withholding is to collect information relating to un-registered service providers and not to increase cost of doing business.

Proposal:

- Rate of withholding may be reduced from applicable rate to 1% of value of services in line of Federal Sales Tax Withholding Rules. Alternatively, input tax may be allowed against such input tax.

Immunity from Withholding SST for active taxpayers:

- Under Sindh Sales Tax Special Procedure (Withholding) Rules 2014, all taxpayers are subject to sales tax withholding which results in unwarranted administrative and operational issues.
- Besides, in case of registered / compliant taxpayer, sales tax withholding and subsequent deposit in the exchequer does not yield any incremental revenue for the Government.

Proposal:

- In line with the FBR and Punjab's withholding sales tax regimes, the registered taxpayers, particularly the companies, may also be treated as 'exempt' from withholding of sales tax.
- This will reduce administrative cost of compliance.



Thank you