

Government of Pakistan  
Revenue Division  
Federal Board of Revenue  
Inland Revenue

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C.No.7(20)S(IR-Operations)/2021/209984R Islamabad, the 05<sup>th</sup> October, 2022

**Chief Commissioners Inland Revenue**

- i) Large Taxpayers' Offices
- ii) Corporate Tax Offices
- iii) Medium Taxpayers' Office
- iv) Regional Tax Offices

**Subject: Undue Recovery Proceedings under Section 138 at 1<sup>st</sup> Appellate stage**

I am directed to refer to the subject and FBR's letter No. C.No.7/(20)S(IR-Operations)/2020 dated October 12<sup>th</sup>, 2021 (copy enclosed) whereby field formations were instructed to avoid coercive measures until case has passed the test of appeal at the level of Commissioner (Appeals). Relevant portion of the letter dated October 12<sup>th</sup>, 2021 is reproduced as under:

*"Coercive measures, until case has passed the test of appeal at the level of Commissioner IR (Appeals), may be avoided. Moreover, in order to utilize collective wisdom, a committee comprising of Senior Commissioners IR headed by Chief Commissioner IR may be constituted at formation level to deliberate on the cases before according approval for coercive measures."*

2. In context of the foregoing, it has come into the knowledge of the Board that the instructions contained in aforementioned FBR's letter are not being followed. In this regard, it is clarified that the instructions /directions issued by FBR vide aforementioned letter have not been withdrawn and to be followed in letter and spirit.



**Mohsin Aman**  
Secretary (IR-Operations)

5/10/2022



**Government of Pakistan  
Revenue Division  
Federal Board of Revenue  
Inland Revenue**

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C.No.7(20)S(IR-Operations)/2020

Islamabad, the 12<sup>th</sup> October, 2021

✓ **Chief Commissioners Inland Revenue**

- i) Large Taxpayers' Offices
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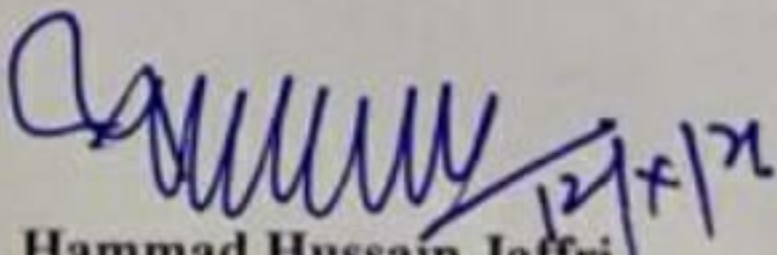
**Subject: Measures to Avoid Unnecessary Litigation**

Litigation, whenever occurs, involves costs of various types including opportunity cost, legal remuneration and man-hours spent on preparing appeals and defending cases before various appellate fora, both on part of the department as well as the taxpayer. It is, therefore, essential to avoid entering into protracted litigation by exercising prudence and ascertaining the potential of a case to pass the test of appeal, so as not to divert resources from other potential cases involving substantial revenue.

2. Furthermore, in order to forestall potential litigation by taxpayers on procedural lacuna, it is also important to ensure that no procedural lacuna is left during proceedings of the case. It has been observed that in certain cases, officers tend to initiate recovery proceedings without giving statutorily available time of 30 days to the taxpayer by resorting to attachment of bank accounts. Subsequently, taxpayer being aggrieved of recovery proceedings before expiry of grace period, obtain stay orders from higher courts resulting in vicious circle of litigation at multiple fora. Therefore, the situation warrants that prudence is exercised both in terms of identifying the cases and deciding if a case has to be pursued at higher legal fora and to what level.

3. In order to avoid unnecessary "hazards of litigation" as detailed supra, I am directed to advise that:-

- i. Coercive measures until case has passed the test of appeal at the level of Commissioner IR (Appeals) may be avoided. Moreover, in order to utilize collective wisdom, a committee comprising of Senior Commissioners IR headed by Chief Commissioner IR may be constituted at formation level to deliberate on the cases before according approval for coercive measures.
- ii. While proposing filing of references and civil appeals, the Zonal Commissioners are expected to exercise their good-judgment and:
  - a. propose filing of references and civil appeals in those cases where substantial revenue or a question of law critical to maintaining the essence of the fiscal statutes and the tax machinery is involved; and
  - b. enter into litigation in other cases only after due consideration of the probability of success and costs involved.
- iii. The Zonal Commissioners shall also ensure, in respect of Officers of Inland Revenue subordinate to them, that:
  - a. Jurisdiction in respect of a taxpayer or class of taxpayers is exercised by the concerned officer;
  - b. All notices issued are properly served as envisaged in the fiscal statutes;
  - c. Orders, including ex-parte orders, are passed after affording due opportunity of being heard; and
  - d. Coercive recovery measures under relevant provisions of fiscal statutes are taken only after exhausting the time period statutorily available to the taxpayer for voluntary deposit of the assessed liability.
4. The Chief Commissioners are expected to oversee the entire process with the objective of ensuring "prudent litigation" and taxpayer facilitation.

  
**Hammad Hussain Jaffri**  
Secretary (IR-Operations)