

Ref : KTBA/05.2021/190

Date : May 21, 2021

Mr. Shahid Iqbal Baloch,
Chief Commissioner Inland Revenue,
Large Taxpayers Office, Karachi.

Mr. Abdul Hameed Memon,
Chief Commissioner Inland Revenue,
Medium Taxpayer Office, Karachi

Dr. Aftab Imam,
Chief Commissioner Inland Revenue,
Corporate Tax Office, Karachi.

Mr. Nazir Ahmed Shoro,
Chief Commissioner Inland Revenue,
Regional Tax Office-I, Karachi.

Mr. Amir Ali Khan Talpur,
Chief Commissioner Inland Revenue,
Regional Tax Office-II, Karachi.

ABUSE OF SECTION 122(5) "DEFINITE INFORMATION" OF INCOME TAX ORDINANCE 2001

Dear Sirs,

With grave concern, we are constrained to approach you for salvation as during the past two weeks taxpayers being clients of our members have received a stream of notices (mostly in TY 2015) which seems to be a tactical attempt by the field formation to invoke jurisdiction of "definite information" envisaged in Sec.122(5) of Income Tax Ordinance, 2001 on weird and fanciful grounds. In order to abreast you of the weirdness of such notices, we are pleased to share below a few such "reasons and grounds" advanced by your field formation officers to assume recourse of "definite information" :

- Not declared any capital hence income declared under NTR and FTR is out of undisclosed sources of capital whereby closing stock is likely to be added as unexplained income.
- Accretion in wealth is more than income declared/claimed under NTR/FTR and cash available in last year is insufficient either; hence difference is likely to be added as unexplained income.
- Personal expenditure bears a difference between income claimed under FTR and NTR and cash available in last year is insufficient either; hence difference is likely to be added as unexplained income.
- Bank deposits and debit entries are huge which do not commensurate to declared income version and difference is likely to be added as income from other source.
- Foreign remittance claimed in the return needs to be probed for the purpose of compliance of Section 111(4) of Income Tax Ordinance, 2001.

Cont'd ... (2)

Ref : KTBA/05.2021/190

Date : May 21, 2021

Page -: (2) :-

- Capital gain on sale of securities & immovable property claimed in the return needs to be probed in line with Section 37(3A) and 37A of Income Tax Ordinance, 2001
- Gift (cash or kind) claimed needs to be probed for the purpose of Sec. 39(3) of Income Tax Ordinance, 2001.
- Total liability in wealth has decreased from previous year which since a liability was definitely paid-off from unexplained source of income and liable to be treated as unexplained expenditure in line with Section 111 of Income Tax Ordinance, 2001
- Interestingly a number of such notices have also been issued where audits for the Tax Year 2015 have already been concluded.

Our members strongly believe that notices have wrongly been issued by the field formation without properly appreciating returns of income tax as well as statements of wealth and also without proper application of mind as host of such cases pertains to incomes from property, salary, dividend etc. and also because the grounds advanced in the notices do not constitute "definite information" within the meaning of Section 122(8) ibid. For your ready reference please refer the reported judgment of Superior Court (2018 PTD 749) where broad contours of "definite information" have already been deduced.

As the time limitation prescribed for initiating proceedings for the TY 2015 draws closer, our members are afraid of encountering more such weird notices in days to come, which in no way tend to serve the purpose of Ordinance 2001 and are likely to create chaotic situation.

We therefore request you to kindly intervene in the situation at your earliest to arrest the abuse of power on the point of Section 122(5) : definite information by the field formation. Thanking you,

Yours sincerely,


(**Muhammad Zeeshan Merchant**)

President

+92-321-8230513

E-mail: zeeshan@mmmerchant.com

C.C to :

- i. **Mr. Asim Ahmad**, Chairman, FBR, Islamabad
- ii. **Dr. Muhammad Ashfaq Ahmed**, Member-IR (Operations), FBR, Islamabad
- iii. **Ch. Muhammad Tarique**, Member-IR (Policy), FBR, Islamabad.
- iv. **Mr. Sajidullah Siddiqui**, Member (Information Technology), FBR, Islamabad.
- v. **Mr. Aftab Hussain Nagra**, President, Pakistan Tax Bar Association.
- vi. **Press and Media.**