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Date : October 25, 2023

Malik Amjad Zubair Tiwana
Chairman
Federal Board of Revenue
Islamabad

Dear Tiwana Sahib, AOA

Removal of Sales Tax Reporting Restrictions based on HS Code Demand for Immediate Redressals

This letter is being written to highlight a pressing issue related to recent changes made in Sales Tax reporting, concerning HS Codes and its associated restrictions.

2- The Sales Tax General Order No. 13 of 2022 issued on 07 April 2022, has imposed a severe limitation on the IRIS portal. It dictates that sales of goods under a specific HS Code by (i) Importers, (ii) Wholesalers, (iii) Dealers and (iv) Distributors can only be reported in Annex-C of their sales tax return if those goods under the same HS Code are also declared in Annex-A and Annex-B by the purchasers.

3- While the intent behind this measure is understood to curb malpractices, it is crucial to emphasize that this decision has far-reaching consequences for honest taxpayers, consequences that must be acknowledged. Allow us to elucidate the challenges faced by taxpayers due to this abrupt restriction:

1. Purchases From Unregistered Persons:

In scenarios where purchases are made from unregistered individuals, there is no provision for reflecting these transactions in Annexure-A of the monthly sales tax returns. Consequently, registered entities are stripped of the ability to bring such transactions under the tax net, a practice that not only generated revenue for the government treasury but also ensured sales tax withholding. This restrictive measure has, regrettably, put a stop to this invaluable contribution. As previously communicated, it is befitting both for the taxpayer and the FBR to immediately reinstate the option to report purchases from unregistered persons.

2. Purchases Made in Prior Periods:

It is not uncommon for businesses to maintain stocks for an extended period before selling them. However, the current system's narrow focus on the input tax for the current month fails to accommodate this reality. This is particularly detrimental to businesses dealing with bulk purchases and sales, as it prevents the reporting of legitimate purchases made by registered entities. Such a punitive system is unreasonable and must be rectified.



Legal Backing for Issuance of STGO

It is imperative to address a fundamental issue that has been overlooked—whether inadvertently or otherwise. The legal underpinning for the issuance of the Sales Tax General Order, as established in Section 55 of the Sales Tax Act, 1990, permits the FBR to issue instructions, directions, or actions to resolve difficulties in implementing the provisions of the Act provided that these measures are consistent with the Act. We assert that the restriction placed on sales tax returns, as per the aforementioned General Order, transgresses the FBR's legally defined boundaries. A careful examination of Section 26 of the Act and the relevant Rules reveals no stipulation for HS Codes and their correlation with purchases made. It is evident that the General Order has exceeded its lawful scope.

Way Forward

We, therefore, are of the view that since the restriction placed on sales tax return in pursuance of above mentioned STGO is beyond the powers available with the FBR, the same, should be recalled.

Regards,


(Syed Zafar Ahmed)

President

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C.C. to:

- i. **Mr. Afaq Ahmed Qureshi**, Member (Inland Revenue - Policy), FBR, Islamabad.
- ii. **Mir Badshah Khan Wazir**, Member-IR (Operations), FBR, Islamabad.
- iii. **Mr. Nasir Khan**, Member (Information Technology), FBR, Islamabad.
- iv. **Dr. Muhammad Amir Malik**, Chief Executive Officer / Chairman BOM, PRAL, Islamabad.
- v. **Mr. Rana Munir Hussain**, President, Pakistan Tax Bar Association.
- vi. **Press Media**