



ITBAK's

News & Views

Member's Assistance Committee
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A monthly publication of the Income Tax Bar Association, Karachi covering information on recent important judicial pronouncements, circulars and clarifications

NV # 1/2002

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From the Desk of President

Dear fellow members,

It is a matter of great satisfaction and pride for me to share my thoughts with you on the inaugural publication of "ITBAK's News & Views". I hope that this monthly publication prepared by the team members of the **Members Assistance Sub-committee** under the Convenorship of Mr. Haider Ali Patel will continue to keep the members abreast of latest judicial pronouncements, circulars and other matters of general interest in future also.

Having served you on different offices of this association in the past and being fully aware of the interests and needs of the members, I in consultation with my senior colleagues on the Bar have endeavored to chalk out a comprehensive programme best suited to meet these ends. This timely publication of the first issue of "News and Views" proves our sincerity of purpose and our resolve to successfully complete our programme with your co-operation, Insha-Allah.

We are sure that the above information will be used as an effective tool by the members of this August Institution to discharge the heavy responsibility they carry on their shoulder in such a professional and thorough manner that not only the just and fair requirements of our clients are met, but also due taxes are collected well within time. We are also duty bound to help the Government through suggestions and recommendations on the basis of our experience to enable them to frame a policy which is conducive to promoting a culture of voluntary compliance and payment of tax. If we ensure such a conduct from ourselves and help the Government in collection of tax from wherever genuinely due it will give a tremendous boost to the economic growth and development of the country and it will be no mean achievement my friends, I assure you.

On this note before saying Khuda Hafiz to you I want to thank you once again for the confidence reposed in me and my colleagues by electing us unopposed and assure you of our best efforts for you and for the beloved country of ours. I once again congratulate the members of "**Members Assistance Sub-committee**" for their unmatched efforts, I am confident that with the blessing of Almighty Allah and with your co-operation **we will make it together a year to remember.**

Abdul Qadir Memon

Message of the Convenor – Members Assistance Sub-committee

Dear Members,

On behalf of the Members Assistance Sub-committee, I am pleased to present the first issue of "ITBAK'S News & Views".

One of the major tasks taken up by the newly elected managing committee of the Income Tax Bar Association for the year 2002 is to keep the members of the bar abreast of the changes and developments taking place in the tax law and latest judicial pronouncements made by the Tribunal / Superior Courts.

With this goal in mind our sub-committee has been assigned the task of issuing a monthly news bulletin to inform the members of the latest developments in law. I hope that you will appreciate this endeavor and would request you to suggest us about how to further improve the publication in order to assist the members in improving their knowledge and efficiency in the profession.

We also plan to include in our future issues update on important un-reported decisions and clarifications that members may be aware of and request you to please provide us such information so that it can be shared with the members of the bar through this publication.

Finally, I take this opportunity to thank the members of the sub-committee for putting in their time and effort in making this publication possible and hope that they would continue to work with the same level of enthusiasm in future as well. I also thank the President and other members of the managing committee for guiding us in our endeavor.

With best regards

Haider Ali Patel, ACA

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SUMMARY OF CIRCULARS /NOTIFICATIONS (JAN- FEB., 2002)

CIRCULARS/ NOTIFICATIONS REFERENCE	DATE	ISSUES INVOLVED	ITBAK LIBRARY REF: NO.
INCOME TAX			
SRO 26/(I)/2002	14-01-2002	Exemption to certain industrial undertaking in special industrial zones set-up by the Federal Government extended upto December 2002.	1
SRO 84/(I)/2002	04-02-2002	Renewal of approval to World Wildlife Fund for Nature (Pakistan) for the purpose of sub-clause (3) of clause 62 of Part I of Second Schedule.	2
SRO 97/(I)/2002	12-02-2002	Commercial importers are no more required to pay tax under section 50(4) at the time of supply of the imported goods.	3
Circular No.1	14-02-2002	Issuance of Rupee Travellers' Cheque is subject to collection of tax under section 50(2B) without any monetary limit.	4
Circular No.2	16-02-2002	NTN Certificates/Card issued upto the year 1998 stand cancelled. Fresh life time certificates will be issued in replacement of old certificates.	5
Circular No.3	27-02-2002	Only those NTN holders who have a change in their address or status need to apply for fresh NTN certificate. The remaining old certificate holders will be issued new certificate by the CBR on its own.	6
SALES TAX			
SRO 5(I)/2002	03-01-2002	Amendment in SRO 91(I)/2001 dated 10-02-2001 regarding exemption from sales-tax on import of hides and skins, finished leather etc.	7
SRO 7(I)/2002	05-01-2002	Cases involving short-filing and non-filing of sales-tax returns will be adjudicated upon by Superintendents and Senior Auditors of the respective Collectorates.	8
SRO 32(I)/2002	18-01-2002	Extension in exemption from Sales-tax to special industrial zones set-up by Federal Government extended upto December, 2002.	9
SRO 79(I)/2002	02-02-2002	Mild Steel products added in the list of goods to be charged tax at 20% as prescribed in SRO 389(I)/2001 dated 18-06-2001.	10
SRO 80(I)/2002	02-02-2002	Adjustment of input tax credit allowed on JP-1 (fuel oil) purchased by PIA and other domestic airline.	11
SRO 88(I)/2002	11-02-2002	Date of payment of Sales-tax on petroleum products extended to 25 th day of the following month.	12
SRO 134(I)/2002	06-03-2002	Restrictions imposed on Ginning Units supplying ginned cotton to spinning units and exports without payment of Sales-tax.	13
Instruction No.1/2002	01-01-2002	Refund claims not to be rejected merely on detection of some fake/inadmissible Sales-tax invoices.	14
Instruction No.2/2002	03-01-2002	Persons making taxable supply to Government department fall in the definition of "wholesaler" and "dealer".	15
Instruction No.3/2002	07-01-2002	Pending cases of short-filing and non-filing of Sales-tax returns transferred to Superintendents and Senior Auditors of the respective Collectorates.	16
Instruction No.4/2002	12-01-2002	Computer servers are exempt from Sales-tax under the Sixth Schedule.	17
Instruction No.5/2002	19-01-2002	Sales-tax required to be paid on import of fertilizer (DAP).	18
Instruction No.6/2002	15-01-2002	Sales-tax will not be charged on sale of plant and machinery including land and building etc. if it is purchase for own use and not for further sale purpose.	19
Instruction No.7/2002	18-01-2002	Supply of "Gypsum" is taxable supply.	20
Instruction No.8/2002	24-01-2002	Removal of taxable supplies from manufacturing unit for piling up at the sales points not to be treated as supply.	21
Instruction No.9/2002	29-01-2002	Transaction on bearer instruments like travelers cheque does not fulfill the condition laid down in section 73 of the Sales Tax Act, 1990.	22
Instruction No.10/2002	31-01-2002	Sales-tax charged to exporter on courier charges is refundable.	23

Instruction No.11/2002	31-01-2002	Speakers and blank CD's imported/purchased are not exempt from Sales-tax.	24
Instruction No.12/2002	06-02-2002	Clarification regarding conditions laid down in para 2 of SRO 987(I)/99 dated 30-08-1999 – exemption from Sales-tax on plant and machinery under the Sixth Schedule.	25
Instruction No.13/2002	11-02-2002	Concession available under SRO 987(I)/1999 dated 30-08-1999 are not available to service providers engaged in providing excisable services.	26
Instruction No.14/2002	12-02-2002	For the purpose of Section 73 of the Sales Tax Act, 1990, facility to transfer payment through banking channel within 120 days of issue of tax invoice does not apply to goods exported from Pakistan.	27
Instruction No.15/2002	15-02-2002	Procedure announced for levy of Sales-tax on supply of petroleum products by refineries.	28
Instruction No.16/2002	25-02-2002	Goods exempt from Sales-tax under section 13 of Sales Tax Act, 1990 will not be treated as Zero rated goods when they are exported.	29
Instruction No.17/2002	25-02-2002	LPU Computerized Anti-pilferage System – not exempt from Sales-tax.	30
Instruction No.18/2002	02-03-2002	15 % Sales Tax on imports at Customs station in tribal areas not to be treated as full and final discharge of liability of Sales-tax for supply to tribal areas of Baluchistan.	31

Members who wish to obtain a copy of any of the above Circular/S.R.O./Instructions may contact the office staff at the Bar's Library.

SYNOPSIS OF CASES LAW (JAN-FEB., 2002)

CITATION	SECTION	ISSUES INVOLVED
INCOME TAX		
2002 PTD 1 SC PAK	52	Onus lies on the assessee to show that tax has been deducted and legal obligation fulfilled.
2002 PTD 44 H.C.KAR	163	Treaty between Pakistan and U.K. viz-a-viz Terms Permanent and Consultation examined and explained.
2002 PTD 63 H.C.PESH	12(18)	Circulars on 12(18) issued by CBR earlier held to be ultra vires declared intra vires.
2002 PTD 388 H.C.KAR (2002) 85 TAX 27H.C.LAH	88, 54	No additional tax u/s 88 when assessee claims no tax liability in the return of income and no tax has been paid.
(2002) 85 TAX 6 TRIB	12(18)	Payment either by cross cheque or through normal banking channel is in accordance with law provided the money lender is NTN holder.
(2002) 85 TAX 11 TRIB	134(6)	Stay of proceeding granted by the learned Tribunal in the pending case.
(2002) 85 TAX 165 H.C.KAR	96, 100, 102	Compensation u/s.102 Self executory.

INCOME TAX & W.W.F.

2002 PTD 14 H.C.KAR	34, 36, 80C	1) No WWF on exempt income
	156, 2 nd	2) WWF to be worked out after carry forward of losses
	Schedule	3) No WWF on presumptive tax regime
		4) Limitation of 30 days and application of Sec. 156.

WEALTH TAX

2002 PTD TRIB 81	RULE 8(2)	Bonus shares would be valued in the same manner as of Ordinary shares.
2002 PTD TRIB 134	16(3)	Inclusion of share value of inherited properties in the net wealth was upheld by the Tribunal despite the fact that same were under litigation for partition and decision.
(2002) 85 TAX 1 SC PAK	RULE 8(2)	Judgement of Hon'ble Lahore High Court on valuation of shares of Private Limited Company overruled.
(2002) 85 TAX 15 TRIB	31-B(1)(b)	Proviso inserted in Section 31-B held retrospective.
((2002) 85 Tax 72 TRIB	2,16, 17B	Action of the departmental officers to disallow liability if no asset created – Disapproved.

IMPORTANT CLARIFICATIONS/NOTIFICATIONS (JAN-FEB., 2002)

CITATION	ISSUES INVOLVED
INCOME TAX	
(2002) 85-TAX-49 (STAT)	CBR Circular letter dated 17-01-2002, interprets explanation to clause (103) of Second Schedule, in respect of exemption from tax on income of a Co-operative Society, in the light of Lahore High Court judgement dated 01-10-2000.
(2002) 85-TAX-29 (Editorial)	Statement published in Daily Dawn, clarified by CBR letter dated 23-10-2001, that Self-Assessment Scheme extends only to Returns filed within due date and further Government alone is competent to take decision regarding concession for filing late Returns – (2002) PTD – 6 (Journal).
(2002) 85 TAX 31 (Editorial)	CBR Letter dated 18-01-2002, on harshness to exporters and their problems, in response to letter dated 10-12-2001.
(2002) 85-TAX-13,25 & 32 (STAT)	Sind Land Tax and Agricultural Income Tax Ordinance, 2000 and Rules, 2001 and Punjab Agricultural Income Tax Rules, 2001 published.

SALES TAX

(2002) 85-TAX-49 (STAT)	Sales Tax General Order No.1/2001 dated 26-06-2001, interprets Section 66 of Sales Tax Act, 1990 for claim of Refund.
(2002) 85-TAX-50 (STAT)	Sales Tax General Order N.2/2001, explains relief notifications issued with Budget 2001-02, under SRO Nos.392 to 395(I)/2001 dated 18-06-2001.
(2002) 85-TAX-35 (Editorial)	CBR has imposed 15% General Sales Tax on non-document courier parcels of 20 Kg. with effect from 15-12-2001.
(2002) 85-TAX-71 (Editorial)	CBR has directed Custom Agents to pay Sales-tax at the rate of 15% on amount received on account of Services rendered by them to the Importers.
(2002) 85-TAX-48 (Editorial)	Sales Tax paid on Courier Services admissible as Input tax.

OTHER IMPORTANT NEWS

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FUTURE CPE ACTIVITIES

DATE	SEMINAR/ WORKSHOP	SPEAKERS	VENUE
April 22, 2002	Practical aspects of Sales Tax Act, 1990	To be announced later	Conference Hall, Ground Floor, New Income Tax Building, Karachi.

The Members Assistance Sub-committee claims no responsibility to the correctness of the contents published. The information provided is non-exhaustive and members are advised to refer to the respective documents/case law cited for understanding the issue involved.

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Courtesy HABIB BANK LIMITED