

# E-News & Views

NV # 01/2020

2020

## A Publication of KTBA

January 2020 to June 2020

**A publication covering information on recent important judicial pronouncements, circulars and clarifications**

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**FROM THE DESK OF THE PRESIDENT**

My Dear Members,

Let me start by wishing you all a very happy, healthy, prosperous and hopefully Covid free NEW YEAR. Today, I am glad to note that the second edition of E-News & Views is ready for publication. This edition covers the period from January 2020 till June 2020.

E-News & Views Sub-Committee led by Mr. Haris Tufail has done exceptional job by meeting the deadlines set by his Sub-Committee.

As always this publication serves as a source of guidance for everyone including the budding tax professionals.

I would like advise the Members to go through this publication and also provide your valuable suggestions to further improve the quality of future publication. This edition also contain two articles which would surely enrich the knowledge of our Members.

I hope and once again request you all to keep safe and take extreme caution during this very dangerous second wave of Covid-19.

Stay safe and happy reading !

Yours in service,

**Muhammad Zeeshan Merchant**

**FROM THE DESK OF THE CONVENER**

Dear Fellow Members,

It is pleasure meet the general body yet again on the release of the second publication of E-News & Views of this Committee.

It is again due to coordinated and concerted team effort which is again commendable.

We have compiled in this issue Circulars, SROs and General Orders concerning revenue laws of the Country issued from January 2020 till June 2020. This publication also covers circulars and notifications issued by Sindh Revenue Board. In addition, important case law dealing with Sales-tax, Federal Excise and Direct Tax are also part of this publication.

We have made our humble efforts to make certain contribution to the E-News & Views resource centre. The KTBA remains committed to act as an invaluable resource centre for its members.

We welcome your suggestions and comments which would indeed help us in our pursuit of improving the readership as well as quality of this publication.

Hope the year 2021 will bring happiness, peaceful and pleasures for all of us.

Yours in service,

**Haris Tufail**

## DIRECT TAX CIRCULARS AND SROs

### Direct Tax Circulars

CIRCULARS REFERENCE	DATE	DESCRIPTION
01 of 2020	January 31, 2020	Extension in due date of Filing of Returns for the <b>Tax Year 2019</b> up to <b>February 28, 2019</b>

### Direct Tax SROs

SRO REFERENCE	DATE	SUBJECT
07(I)/2020	January 02, 2020	Amendment in Rule 231A of the Income Tax Rules, 2002 relating to procedure for issuance of advance ruling under section 206A of Income Tax Ordinance, 2001
68(I)/2020	January 31, 2020	Amendment in Rule 231A of the Income Tax Rules, 2002 relating to procedure for issuance of advance ruling under section 206A of Income Tax Ordinance, 2001
111(I)/2020	February 14, 2020	Rules related to recovery of Tax from Persons holding money on behalf of Taxpayer
140(I)/2020	March 02, 2020	Values of minerals for the purpose of sub-section (4) of section 236V of Income Tax Ordinance, 2001
236(I)/2020	March 20, 2020	Amendment in Part IV second schedule of the Income Tax Ordinance, 2001 for exempting application of section 148 on import of specified items for three months.
274(I)/2020	April 03, 2020	Amendments in Income Tax Rules, 2002
287(I)/2020	April 07, 2020	Reduction in taxes and duties on import and supply of various food items
323(I)/2020	April 09, 2020	Convention for avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income between Islamic Republic of Pakistan and the Republic of Bulgaria.
296(I)/2020	April 09, 2020	Rules related to online Integration of Businesses
300(I)/2020	April 10, 2020	Exemption from income tax to the PM COVID-19 Pandemic Relief Fund-2020
316(I)/2020	April 16, 2020	Removal of brand specification in respect of certain goods being imported for the prevention and treatment of COVID-19.
315(I)/2020	April 16, 2020	Exemption of income tax under Ehsaas Emergency Cash Transfer Programme
557(I)/2020	June 22, 2020	Exemption from income tax at import stage in respect of import of finished drug Remdesivir

## Indirect Tax CIRCULARS, GENERAL ORDERS AND SROs

### Indirect Tax Circulars

CIRCULAR REFERENCE	DATE	DESCRIPTION
Circular No. 01 of 2020	January 16, 2020	Explanation of important amendments in Sales Tax Act, 1990 and Federal Excise Act, 2005 - Tax Laws (Second Amendment) Ordinance, 2019
Sales Tax Circular No.1 of 2020/IR-Operations	August 04, 2020	Standard Procedure for Overruling the STARR Objections on Sales Tax Refund Claims
	August 06, 2020	Finance Act, 2020 - Explanation of important amendments in Sales Tax Act, 1990 and Federal Excise Act, 2005

### Indirect Tax General Orders

General Order No.	Date	Description
Addendum to STGO 105 of 2019	January 08, 2020	Adjustment/Refund of Sales Tax paid under erstwhile Special Procedures
STGO No.1 of 2020	January 16, 2020	Issued to specify supplies to which provisions of Section 73(4) of the Sales Tax Act, 1990 are not applicable.

### Indirect Tax SROs

SRO REFERENCE	Dated	SUBJECT
S.R.O. 36(I)/2020	January 21, 2020	To make further amendments in its Notification No. S.R.O. 1190(I)/2019, dated the 2 <sup>nd</sup> October 2019.
S.R.O. 223(I)/2020	March 16, 2020	Amendment in Sales Tax Rules, 2006.
S.R.O. 233(I)/2020	March 18, 2020	To make amendment in Notification No. S.R.O. 812(I)/2016, dated 2 <sup>nd</sup> September 2016.
S.R.O. 237(I)/2020	March 20, 2020	Exemption from sales tax on import and subsequent supply of certain goods (relating to Covid-19).
S.R.O. 317(I)/2020	April 16, 2020	To make amendment in Notification No. S.R.O. 237(1)/2020, dated the 20th March 2020 (relating to Covid-19)
S.R.O. 344(I)/2020	April 29, 2020	To further make amendments in its Notification No. S.R.O. 1190(I)/2019, dated the 2nd October 2019.
S.R.O. 352(I)/2020	May 05, 2020	Registered petroleum exploration and production company to deduct amount of input tax from the output tax subject to the conditions,

		limitations or restrictions.
S.R.O. 353(I)/2020	May 05, 2020	Amendment in Sales Tax Rules, 2006 (Recovery rules).
S.R.O. 555(I)/2020	June 19, 2020	Exemption from sales tax on import and subsequent supply of certain goods (relating to Covid-19).
S.R.O. 36(I)/2020	January 21, 2020	To further make amendments in its Notification No. S.R.O. 1190(I)/2019, dated the 2nd October 2019.
S.R.O. 223(I)/2020	March 16, 2020	Amendment in Sales Tax Rules, 2006.
S.R.O. 233(I)/2020	March 18, 2020	To make amendment in Notification No. S.R.O. 812(I)/2016, dated 2nd September 2016.
S.R.O. 237(I)/2020	March 20, 2020	Exemption from sales tax on import and subsequent supply of certain goods (relating to Covid-19).
S.R.O. 317(I)/2020	April 16, 2020	To make amendment in Notification No. S.R.O. 237(1)/2020, dated the 20th March 2020. (relating to Covid-19)
S.R.O. 344(I)/2020	April 29, 2020	To make further amendments in its Notification No. S.R.O. 1190(I)/2019, dated the 2nd October 2019.
S.R.O. 352(I)/2020	May 05, 2020	Requiring registered petroleum exploration and production company to deduct amount of input tax from the output tax subject to the conditions, limitations or restrictions.
S.R.O. 353(I)/2020	May 05, 2020	Amendment in Sales Tax Rules, 2006 (Recovery rules).
S.R.O. 555(I)/2020	June 19, 2020	Exemption from sales tax on import and subsequent supply of certain goods (relating to Covid-19).

### Indirect Tax Circulars - SRB

CIRCULAR REFERENCE	Dated	SUBJECT
Circular No. 01/2020	March 17, 2020	Extension in the last date for e-deposit of Sindh sales tax for the tax period February, 2020 and for e-filing of tax return (form SST-03 or form SSTW-03, as the case may be) for the tax period February, 2020
Circular No. 02/2020	March 27, 2020	Further extension in the last date for e-deposit of Sindh sales tax for the tax period February, 2020 and for e-filing of tax return (form SST-03 or form SSTW-03, as the case may be) for the tax period February, 2020
Circular No. 03/2020	April 16, 2020	Extension in the last date for e-deposit of Sindh sales tax for the tax period March, 2020 and for e-filing of tax return (form SST-03 or form SSTW-03, as the case may be) for the tax period March, 2020
Circular No. 04/2020	May 21, 2020	Extension in the last date for e-deposit of Sindh sales tax for the tax period April, 2020 and for e-filing of tax return (form SST-03 or form SSTW-03, as the case may be) for the tax period April, 2020
Circular No. 05/2020	June 23, 2020	Extension in the last date for e-deposit of Sindh sales tax for the tax period May, 2020 and for e-filing of tax return (form SST-03 or form SSTW-03, as the case may be) for the tax period May, 2020

**Indirect Tax Notifications - SRB**

Notification Order No.	Dated	SUBJECT
SRB-3-4/4/2020	January 21, 2020	Notification amending the consolidated Notification No. SRB-3-4/7/2013 Dated 18Th June, 2013 and providing for exemption on Construction Services (Tariff Heading 9824.0000) on the construction of specified sizes of homes and flats in the low-cost affordable housing projects approved and funded by the Federal Government or the Government of Sindh.
SRB-3-4/5/2020	January 21, 2020	Notification of exemption on the specified services provided or rendered during the Period from 1 July, 2019 to 20 June, 2020 in relation to certain ADP projects covered by Notifications No. SRB-3-4/9/2017 dated 2 June, 2017 and No SRB-3-4/3/2018 Dated 6 February, 2018.
SRB-3-4/7/2020	February 06, 2020	Amendments in notification no. SRB-3-4/8/2013 dated 1 July, 2013, specifying certain reduced rate under section 8(2) of the Sindh Sales Tax on Services Act, 2011.
SRB-3-4/8/2020	February 06, 2020	Amendments in various rules of Sindh Sales Tax on Services Rules, 2011.
SRB 3-4/10/2020	April 29, 2020	Time bound notification of the exemption of Sindh sales tax on the commission (tariff heading 9813.1300) paid by banks to their branchless banking retailers in Sindh on account of disbursement of financial assistance under the EHSAAS cash transfer programme.
SRB-3 -4/11/2020	June 01, 2020	Sindh sales tax incentive package for total waiver of penalty and remission of up to 100% of the amount of the default surcharge.
SRB-3-4/TP/15/2020	June 22, 2020	Amendments in the conditional exemption Notification no.SRB-3-4/15/2019 dated 27 June, 2019, allowing extension in exemption period (up to 30th June, 2021) in relation to the services provided or rendered by stand-alone cable TV operators (Tariff Heading 9819.9000).
SRB-3-4/TP/14/2020	June 22, 2020	Amendments in the period of exemption on health insurance services for a period up to the 30 June, 2021.
SRB-3-4/TP/13/2020	June 22, 2020	Time-bound and conditional exemption of Sindh sales tax on the services of life insurance (Tariff Heading 9813.1500) for the period during FY-2019-20.
SRB-3-4/TP/12/2020	June 22, 2020	Notification prescribing reduced rate of 8% Sindh sales tax on the services provided or rendered.
SRB-3-4/16/2020	June 29, 2020	Corrigendum of notification no. SRB-3-4/31/2019 dated 03 August, 2019 regarding exemption of advertisement services for Print Media.
SRB-3-4/17/2020	June 29, 2020	Amendments in various rules of Sindh Sales Tax on Services Rules, 2011.
SRB-3-4/18/2020	June 29, 2020	Amendments in Sindh Sales Tax Special Procedure (Withholding) Rules, 2014.
SRB-3-4/19/2020	June 29, 2020	Amendments in Sindh Sales Tax Special Procedure (Transportation and Carriage of Petroleum Oils Through Oil Tankers) Rules, 2018.

## CIRCULARS ISSUED BY SECP DURING THE YEAR 2020

S.No.	Circular No.	Date	Description
1.	01 of 2020	January 23, 2020	The growth rate scenarios for life insurance and family takaful illustrations have been decided to be 8%, 10% and 12% for the year 2020. However, inflation adjusted rate of return shall remain at 3% ,4% and 5%.
2.	02 of 2020	February 06, 2020	To prescribe certain requirement for AMCs to ensure suitability CIS/plans to the investor.
3.	03 of 2020	February 20, 2020	To allow subsidiaries of ISE towers REIT management companies limited to apply for registration to act as trustee of open-end scheme or close end scheme subjects to certain terms and condition.
4.	04 of 2020	March 03, 2020	To allow AMCs to invest in unit Exchange Traded Funds on behalf CIS subject to certain conditions.
5.		March 04, 2020	To update the panel of auditors for modarabas.
6.	05 of 2020	March 17, 2020	Covid-19 contingency planning for AGM of shareholders.
7.	06 of 2020	March 22, 2020	To relax from certain provisions of Companies Act 2017 due to covid-19.
8.	08 of 2020	March 30, 2020	To withdraw circular No. 08 of 2016 dated March 09, 2016.
9.	09 of 2020	March 31, 2020	To relax lending NBFC including NBMFCs under regulation 67A of the NBFC and NE regulation,2008.
10.	10 of 2020	April 01, 2020	To provide regulatory relief to dilute impact of COVID-19 for corporate sectors.
11.	11 of 2020	April 09, 2020	To relax certain provisions of NBFC and NE regulation 2008 and circulars due to COVID-19.
12.	12 of 2020	April 13, 2020	To provide relaxation in renewal on Insurance brokers, Insurance Surveyors and authorized Surveying Officers during COVID-19 outbreak.
13.	13 of 2020	April 14, 2020	Preventive measures against COVID-19.
14.	14 of 2020	April 16, 2020	To amend circular # 36 of 2009 and circular # 36 of 2012. (Amendment in investment policy).
15.	17 of 2020	April 20, 2020	To give preventive measures against COVID-19.
16.	16 of 2020	April 20, 2020	To relax certain provisions of NBFC regulation 2008
17.	15 of 2020	April 24, 2020	To provide certain facilitation to Modarabas.
18.	18 of 2020	April 27, 2020	To provide following regulatory relief due to COVID-19. 1. Relaxation in submission of quarterly information under

			Directive 55(1)12020. 2. Companies to make necessary work arrangements for ensuring regulatory compliances.
19.	19 of 2020	May 15, 2020	Extension in time for renewal of licenses due to COVID-19.
20.	20 of 2020	June 17, 2020	Extension in time for compliance with requirement suitability and risk categorization of CIS.
21.	21 of 2020	June 29, 2020	Relaxation to NBMFCs under regulation 67A of the NBFC and NE regulation, 2008.

**Note:** Members are advised to read complete Case laws, Circulars and SROs/ Notifications for better understanding of respective issues.

## SYNOPSIS OF IMPORTANT CASE LAWS DIRECT TAXES

CITATION	SECTION(S)	ISSUES INVOLVED
<b>2020 PTD 968</b>  (Lahore High Court)  Commissioner Inland Revenue V. Messrs Malik Usman  Decided on March 14, 2018	Section 111 of the Income Tax Ordinance, 2001 [2001 Ordinance]	<p>The section 111 relates to addition on account on un-explained income and assets.</p> <p>The department made addition under this section against the taxpayer which was assailed by Hon'ble Tribunal.</p> <p>The appeal was allowed by the Tribunal holding that addition was made hurriedly without examination of record.</p> <p>The departmental petition was dismissed by the High Court holding that finding of the last fact finding authority does not warrant inference. Court holding that finding of the last fact finding authority does not warrant inference.</p>
<b>2020 PTD 63</b>  (Appellate Tribunal Inland Revenue)  Decided on August 15, 2018	Section 5 read with Fourth Schedule to the 2001 Ordinance.	<p>The learned Tribunal held that for taxation purposes reinsurance business is to be accorded identical treatment as in the case of an insurance Company. The learned Tribunal further held that dividend income in the case of insurance companies will remain chargeable to tax at reduced rates specified in the First Schedule (till Tax Year 2016).</p> <p>The learned Tribunal further held that vide Finance Act 2016 an amendment was made in the Fourth Schedule in which Rule 6-B was substituted whereby besides capital gain on disposal of shares, dividend of listed companies have also been made part of income of insurance companies to be taxed at normal rates, which shows the intention of the legislature to tax dividends at the corporate tax rate and such intention was not earlier mentioned (prior to Tax Year 2016).</p>
<b>2020 PTD 642</b>  (FTO)  Shakir Ali Rajput V. The Secretary, Revenue Division, Islamabad  Decided on December 28, 2018.	Section 231A of the 2001 Ordinance	<p>The Complainant approached the FTO against withholding of Income Tax upon Cash withdrawal from bank. The Complainant contended that he is an overseas Pakistan and is not required to File Return of Income, whereas Income Tax is being deducted u/s 231A from his bank account upon cash withdrawal.</p> <p>The Concerned Commissioner-IR, Contended, that Bank are under legal obligation to deduct Income tax u/s 231A and the tax so deducted could be adjusted against the tax liability of the taxpayer or the taxpayer can claim refund of the tax so deducted.</p> <p>The FTO, directed the Commissioner-IR, to facilitate the complainant in getting refund of the amount deducted from his bank account.</p>
<b>2020 PTD (Trib.) 940</b>  (Appellate Tribunal Inland Revenue)  Decided on March 06, 2019	Section 182 and Section 165 of the 2001 Ordinance	<p>Section 182(1) (1A) requires that penalty of specified amount to be paid in case of non-filing of withholding statements under section 165 / 165A / 165B within the due date.</p> <p>In the instant case, the department passed orders u/s 182 which was assailed by the taxpayer on the basis that no tax was payable and the 'nil' withholding statements were filed before issuance of show cause notice.</p> <p>Appeal was allowed by the Hon'ble Tribunal holding that penalty is</p>

		imposed in the instant case when no tax is payable and is hence not maintainable.
<b>2020 PTD 1020</b> (Appellate Tribunal Inland Revenue)  March 08, 2019	Section 161 of the 2001 Ordinance	<p>The taxpayer was aggrieved by order passed under section 161 upon withholding tax audit.</p> <p>The order was assailed by the taxpayer pleading that default has been created by subjecting all profit and loss expenses to a uniform rate without specifying the specific transactions and that similar proceedings were already carried against the taxpayer.</p> <p>The appeal was allowed by the Tribunal.</p>
<b>2020 PTD 510</b> (FTO)  SH. Qaiser Mehmood v. The Secretary Revenue Division  decided on April 12, 2019	Section 122, 122-A, 127 & 221 of The 2001 Ordinance	<p>In this case, the Complainant, being aggrieved by the action of the DCIT, Sialkot u/s 122(1) filed complaint against maladministration of the Department.</p> <p>It was plotted that, there was some collusive arrangement among the Complainant and the Zonal CIR to set aside the order passed by DCIR u/s 122(1). It was held that the Zonal CIR had gone beyond his jurisdiction by invoking section 122A with corrupt motives and directed FBR to initiate disciplinary proceedings against the Zonal CIR.</p>
<b>2020 PTD 788</b> (Lahore High Court)  Commissioner of Income Tax, Lahore V. Machine Crafts (Pvt.) Limited, Lahore  Decided on April 16, 2019	Section 133 of the 2001 Ordinance	<p>In this case, the appellant department, filed reference to the High Court on the grounds that the Commissioner IR was under wrong impression of stay granted by High Court operated beyond six months as question of law.</p> <p>The Hon'ble court declined to interfere in the finding of the Appellate Tribunal and noted that no question of law arises out of the impugned order and hence decided against the applicant – department.</p>
<b>2020 PTD 772</b> (Lahore High Court)  Commissioner IR, Faisalabad V. Interloop Limited, Faisalabad  Decided on April 17, 2019	Section 133, 122 and 115 of 2001 Ordinance	<p>In this case the Assessing Officer had allegedly acquired definite Information in terms of section 122(8) that the taxpayer had declared local sales which were offered under final Tax Regime by wrongly availing benefit of Circular No. 20 of 1992 dated 01-07-21992 and Circular No. 05 of 2000, dated 06-03-2020.</p> <p>Appellate Tribunal allowed the taxpayer's appeal holding that information of sale in the local market was duly available in the audited accounts of taxpayer and the statement so filed was as per audited accounts, thus the case of department did not qualify within the ambit of "definite information".</p> <p>The Hon'ble court declined to interfere in the finding of the Appellate Tribunal and noted that no question of law arises out of the impugned order and hence decided against the applicant – department.</p>
<b>2020 PTD 153</b> (Lahore High Court)  Commissioner of Income Tax v. Grays Leasing Ltd. Lahore  Decided on April 17, 2019	Section 12(19) of the 2001 Ordinance	<p>The question of law before the Hon'ble Court was that whether 'lease key money' is chargeable to tax being sum received in connection with lease of an asset under section 12(19) in the hands of the lessor company. Lease Key Money is the initial deposit that is given to a leasing company on getting an asset on lease, which is retained as security deposit against lease of assets.</p> <p>The Hon'ble Court held that 'Lease Key Money' was not taxable for the reason that leasing companies were already offering to tax the same amount in the year of maturity of a lease by considering it as sale</p>

		proceeds of a leased asset. The Court further held that intention of the legislature was to tax amounts/payments which were attributable to leasing and not to moneys received as security deposits, adjustable against sale of assets after end of lease period.
<b>2020 PTD 1084</b> (Appellate Tribunal Inland Revenue)  Decided on May 22, 2019	Section 120 and 121 of the 2001 Ordinance	<p>Section 121 relates to best judgment assessment in case the taxpayer fails to file the return of income or if the return filed is incomplete.</p> <p>In the instant case, the tax authorities passed order under section 121 which was assailed by the taxpayer on the basis that manual return was filed and that the department didn't issued notice under section 114 or 120 of the Ordinance.</p> <p>Appeal was allowed by the Hon'ble Tribunal holding that prerequisites of law have not been met.</p>
<b>2020 PTD 27</b> (Sindh High Court)  A.F Ferguson & Co. through Partner v. Pakistan  Decided on August 09, 2019	Section 92 of the 2001 Ordinance	<p>Suits were filed by the Plaintiffs (Chartered Accountants and members of the Institute of Chartered Accountants of Pakistan) whereby they contended that in terms of section 92 there is no restriction that it is only the Firm which can file its return and pay taxes on income, as at the same time the partners of the Firm are also eligible to do the same, in which case the Firm then becomes not liable to pay any tax on the income so earned.</p> <p>The Hon'ble Court held that in terms of section 92 it is only the association of persons or the firm which has to file its return of total income and pay tax accordingly, and not the partners individually in respect of the income received from the association of persons or the firm. Once the tax is paid by the firm, then the partners are not required to pay any tax on such part of the income on which tax has already been paid, however they are required to file independent return and pay taxes on other income.</p>
<b>2020 PTD 274</b> (Lahore High Court)  Khalid Nazir Spinning Mills Ltd. V Federation of Pakistan  Decided on August 21, 2019	Section 159 a Clause 66-P IV 2 <sup>nd</sup> Schedule 2001 Ordinance	<p>Petitions were filed challenging the charge of income tax on electricity bills for the months of July and August 2019. Petitioners claimed that since they are Textile Mills registered as Manufacturers, Importers, Exporters and Wholesales under section 27 of the Sales Tax Act, 1990 the charge of income tax is against the exemption granted under Clause 66, Part-IV of the Second Schedule. Petitioners further submitted that since they are exporters and importers of textile sector, they are exempted from the aforesaid income tax. The Hon'ble Court held that Petitioners have not filed any application under section 159 being a mandatory requirement under the law. The Court, however, to avoid miscarriage of justice converted the said Petitions and transmitted them to the Commissioner concerned, who will treat it as applications under section 159 of the Ordinance and decide the issue on merits.</p>
<b>2020 PTD 110</b> (Islamabad High Court)  Pakistan Oilfields Limited v. Federation of Pakistan  Decided on September 16, 2019	Article 199 of the Constitution	<p>The Hon'ble held that there are certain exceptions under which a writ petition can filed and can possibly be maintainable against a show cause notice. The Hon'ble Court further held that on mere pendency of Tax Reference is no bar for the notice issuing authority to proceed further in the matter and or for the Petitioner to agitate the matter directly before the High Court in its writ jurisdiction.</p>

<b>2020 PTD 604</b>  (Sindh High Court)  Shafqat Elahi Shaikh V. The Deputy Commissioner of Income Tax  Decided on September 25, 2019	Section 62 and 35 of the Income Tax Ordinance, 1979 (Repealed)	<p>In this case the appellant had filed his return of income and Wealth Statement declaring exempt income from Selling of Plots under the head Capital Gains.</p> <p>The Deputy Commissioner of Income Tax treated the sale of Plots as adventure in nature of trade and taxed the gain arising on sale of plots under the "Head Income from Business".</p> <p>It was held that the circumstances under which the appellant had sold his plots and shifted to another city justifies his intentions and capital gain declared in his return of Income and Wealth Statement are according to the legal provisions. Hence Appeal was allowed.</p>
<b>2020 PTD 386</b>  (Sindh High Court)  Schlumberger Seaco Inc. Karachi v. The Deputy Commissioner of Income Tax  Decided on October 29, 2019	Section 108 of the 2001 Ordinance	<p>The question of law before the Hon'ble Court was whether the applicant taxpayer was required under the law to deduct tax on the amount of premium paid to two different non-resident insurance companies. The Hon'ble Court after going through the relevant articles of the avoidance of double tax treaties held that the insurance companies being non-resident companies are Permanent Establishment of the United Kingdom and United States respectively, as such they are squarely covered under the Avoidance to Double Tax Treaties signed by Pakistan with the countries of their origin and are, therefore, not liable to income tax in Pakistan. On such premise the Hon'ble Court held that the premium paid by the assessee taxpayer to those insurance companies is not chargeable to income tax and they are not required to deduct tax thereon.</p>
<b>2020 PTD 278</b>  (Supreme Court of Pakistan)  Commissioner of Income Tax (Legal) Regional Tax Officer, Peshawar v. Safeer Jan  Decided on November 05, 2019	Section 12(18) of Income Tax Ordinance, 1979	<p>The Hon'ble Supreme Court while dismissing the departmental appeal held that on plain reading of section 12(18) of Income Tax Ordinance, 1979 (since repealed) showed that the said provision was only attracted when loans, advances and gifts were received in cash. However, in the present case no cash was exchanged between the members of the partnership firm (AOP). The partners had only authorized the respondent taxpayer to withdraw a certain amount from their share in the AOP as such no cash had been paid or received. The said transaction was duly supported by gift deeds executed between the partners and was also ex facie reflected in the book entries made in the records of the AOP. The Apex court further held that since only a right was given to the respondent taxpayer to withdraw the amounts in question from time to time from the share of the donors in the AOP, therefore section 12(18) of the Ordinance was not attracted in the case.</p>
<b>2020 PTD 827</b>  (Sindh High Court)  Bank Alfalah Limited V. Federation of Pakistan  Decided on November 13, 2019	Section 176 of the 2001 Ordinance	<p>Section 176(1)(a) relates to the power of the Commissioner to seek information by notice in writing from any person whether or not liable to tax under the Ordinance.</p> <p>The petition, a banking company, challenged the notice under section 176 requiring details in connection with debit/credit machines installed by bank at different commercial establishments at their sale points (with the basis that notice u/s 176 can only require records for the purpose of audit of petitioner accounts while the said notice does not relate to any tax obligation of the petitioner; merchants regarding whom information was sought did not fall within the jurisdiction of LTU as not fall under category of large taxpayers; and the petitioner is subject to statutory obligation of confidentiality as per section Banking Ordinance 1962 and Protection of Economic Reforms Act 1992 and information is of clients and private account holders of bank.)</p> <p>The petition was dismissed by Sindh High Court holding that the notice under section 176 as not illegal or unlawful as under section 176 income</p>

		tax authorities had vast powers in respect of getting information of taxpayers and also of non-taxpayers / non-filers to bring them in to the tax net.
<b>2020 PTD 782</b> (Lahore High Court)  Commissioner Inland Revenue V. Rashid and Saqib Trading Company  Decided on November 14, 2019	Section 221 of the 2001 Ordinance	<p>In this case, the ATIR originally confirmed the order passed by the CIR, and later on rectified its order in original under section 221.</p> <p>Being aggrieved with the actions of ATIR, the Commissioner-IR preferred reference to this the Honorable High Court.</p> <p>It was held that the ATIR had gone beyond its jurisdiction by rectifying its order in original u/s 221.</p>
<b>2020 PTD 331</b> (Lahore High Court)  Commissioner Inland Revenue v. Raja Mazhar Hussain  Decided on December 03, 2019	Section 108, 82 and 111 of the 2001 Ordinance / Taxation Treaty between Pakistan and France	<p>The Hon'ble High Court in this case agreed with the findings of the learned Tribunal and dismissed the departmental reference application. The learned ATIR had held that respondent taxpayer had center of vital interest in France by virtue of his personal economic interests, business operations, bank accounts and permanent house being located in France. The learned Court further went onto to hold that once it was established that the respondent taxpayer's center of vital interest was not Pakistan, section 111 read with section 82 were not applicable to him as they were superseded by Article 4 of the Bilateral Tax Treaty between Pakistan and France. This is an interesting case regarding the concept of 'center of vital interest' and the 'tie-breaker test'.</p>
<b>2020 PTD 802</b> (Supreme Court of Pakistan)  Messrs Elite Estate (Pvt.) Ltd. V. Federation of Pakistan  Decided on January 13, 2020	Section 152 of the 2001 Ordinance	<p>The petitioner applied to FRR for withholding tax exemption u/s 152 in respect of consultancy fee to be paid to the Egyptian company in terms of article 7 of the treaty between Pakistan and Egypt which provides that business profits earned by an entity of a contracting State shall be taxable in the State in which the Company belongs unless the enterprise carries on business in other contracting state through a permanent establishment situated therein.</p> <p>The application was rejected by FBR holding that in terms of Article 12.2 of the said treaty income from technical services to be taxed in the contracting State in which it was they arise and in accordance with the laws of that State.</p> <p>The Supreme Court dismissed the petition (for exemption from deduction of the aforesaid withholding tax to be paid to Egyptian company) holding that tax payable in the instant case is respect of Consultancy services arise from Pakistan and not on any business profits hence Article 12 is applicable in this case.</p>
<b>2020 PTD 1060</b> (Peshawar High Court)  M/s. Ikram Ullah Associates V. Govt. of Khyber Pakhtunkhwa  Decided on March 03, 2020	Section 159, Clause 146 P-IV 2 <sup>nd</sup> Schedule 2001 Ordinance	<p>In the instant case the taxpayer was the habitant of Erstwhile Provincially Administered Tribal Areas [PATA]. The taxpayer was aggrieved by income tax deducted by provincial authorities from the work bill requiring the taxpayer to obtain exemption certificate from tax authorities.</p> <p>The Hon'ble court held that taxpayer being permanent resident of PATA and immune from income tax and hence not required to obtain exemption certificate. He will not be liable to income tax.</p>

<p><b>2020 PTD 1157</b></p> <p>(Supreme Court of Pakistan)</p> <p>Hamid Ashraf (Late) V. Commissioner Inland Revenue, Lahore</p> <p>Decided on March 05, 2020</p>	<p>Section 171 of the 2001 Ordinance</p>	<p>The court has held that for the purposes of compensation for delayed refund, the due date of refund shall be date of refund order and not the date of deemed assessment.</p>
<p><b>2020 PTD 1140</b></p> <p>(Supreme Court of Pakistan)</p> <p>FBR V. M/s. Wazir Ali and Company etc</p> <p>Decided on March 09, 2020</p>	<p>Section 4A of the 2001 Ordinance</p>	<p>Section 4A was inserted vide Income Tax Amendment (IV of 2011) dated 16 March 2011. It imposed surcharge at the rate of fifteen percent of taxable income from 16 March 2011 till 30 June 2011. Vide circular No. 11 of 2011 dated 12 September 2011 the board clarified that for the purpose of calculating this liability proportionate tax liability for 3.5 months [out of total tax liability for tax year 2011] was to be calculated. The taxpayer challenged the basis of circular dated 12 September 2011 holding that liability for period from 16 March 2011 till 30 June 2011 was to be calculated for levy of surcharge. This was accepted by the High Court.</p> <p>The Supreme Court has however allowed the departmental petition against the High Court order holding that in tax there can be no concept of two periods within one tax year and hence basis of calculation as per the circular is correct.</p>
<p><b>2020 PTD 1001</b></p> <p>(Lahore High Court)</p> <p>National Power Parks Management Company (Pvt.) Ltd. V. FBR</p> <p>Heard on March 09, 2020</p>	<p>Section 147(6)(7) of the 2001 Ordinance</p>	<p>In this case orders were passed against the taxpayer under section 147(6)/(7). The Officer rejected the advance tax estimate submitted by the taxpayer under section 147(6) particularly in respect of claim of tax credit under section 65D.</p> <p>The taxpayer filed petition against the impugned order pleading that:</p> <ul style="list-style-type: none"> <li>- The Officer don't hold the authority to challenge or reject the estimate of taxpayer; and</li> <li>- Departmental appellate hierarchy is not available in this case of order under section 147(7).</li> </ul> <p>The petition was dismissed by the Hon'ble court holding that respondent had the legislated power to reject the estimate and that appellate course was available to the taxpayer which can be perused for appeal on merits.</p>
<p><b>2020 PTD 962</b></p> <p>(Lahore High Court)</p> <p>Commissioner Inland Revenue V. Ashraf Sugar Mills Limited</p> <p>Decided on March 18, 2020</p>	<p>Section 60A, 174 of the 2001 Ordinance</p>	<p>The taxpayer claimed deductible allowance for Worker's Profit Participation Fund [WPPF] which was disallowed by the tax authorities holding that it was not paid in the tax year. Further addition on account of disallowance of profit and loss expenses was made.</p> <p>Appeal filed by the taxpayer before Tribunal was allowed. The departmental reference was dismissed by the Hon'ble High Court holding that deductible allowance for WPPF was allowable as payment for WPPF was made in the next year and that addition for expenses made with confronting was not sustainable in law.</p>

## SYNOPSIS OF IMPORTANT CASE LAWS INDIRECT TAXES

CITATION	SECTION(S)	ISSUES INVOLVED
<b>2020 PTD(Trib.) 54</b>  (Appellate Tribunal-SRB)  Decided on November 22, 2018	Section 3, 4 & 24B of the Sindh Sales Tax on Services Act, 2011	<p>Vide this judgment the learned Appellate Tribunal-SRB has upheld the compulsory registration of various distributors of M/s Colgate Palmolive (Pakistan) Limited in Sindh on the premise that such distributors were engaged in the provision of services taxable under tariff heading "9845.0000 (Supply chain management or distribution (including delivery) services" of the Second Schedule to the Sindh Sales Tax on Services Act, 2011; despite the fact that such distributors were also registered with the FBR under the Sales Tax Act, 1990 and were paying sales tax there under on their entire supplies.</p> <p>Note: It is pertinent to point out here that the said issue is presently sub-judice before the honorable High Court of Sindh whereby the interim relief has been granted.</p>
<b>2020 PTD 713</b>  (Custom Appellate Tribunal)  Decided on November 26, 2018	Section 32 of the Customs Act, 1969 Section 11 of Sales Tax Act, 1990 Section 148 & 162 of the Income Tax Ordinance, 2001	<p>Through this judgment the learned Custom Appellate Tribunal has held that the Custom Authorities collect sales tax and income tax at import stage as collecting agent only. In case any shipment is cleared without payment or the income tax or sales tax is short paid at import stage, such authorities have no power to adjudicate the short recovery of sales tax and income tax under Section 11 of the Sales Tax Act, 1990 and 162 of the Income Tax Ordinance, 2001 respectively.</p>
<b>2020 PTD 121</b>  (Appellate Tribunal-SRB)  Decided on April 4, 2019	Section 23 of the Sindh Sales Tax on Services Act, 2011 & Sindh Sales Tax Special Procedures (Withholding) Rules, 2011	<p>In this judgment, the learned Appellate Tribunal SRB has held that in case of advertisement services the responsibility for deducting and paying the sales tax rests with the service recipients who are withholding agents. In such cases where service recipients are known to the department and are withholding agents, the responsibility to pay tax cannot be shifted to the service provider, hence any tax demand created/recovered from such service providers is illegal.</p> <p>It has also been held that mentioning of main tariff heading of advertisement i-e 98.02 in order in original was not sufficient and it is against the listing of specific taxable services. The determination of specific tariff heading is essential for levying the tax.</p>
<b>2020 PTD 165</b>  (Lahore High Court)  Quaid-e-Azam Thermal Private Limited V. FBR  Decided on April 10, 2019	Section 48 of Sales Tax Act, 1990 read with Rule 71 of the Sales Tax Rules 2006	<p>It is an important verdict given by the Honorable High Court Lahore regarding recovery through coercive measure i-e bank account attachment.</p> <p>It has been held that in case of rejection of first appeal, the department cannot directly proceed to recover tax demand through bank account attachment, instead the registered person should be first served with recovery notice specifying the tax demand adjudged and other details of Appellate Order and providing reasonable time to pay the adjudged amount of tax. Only thereafter, if the registered person fails to either pay the tax or produce stay from the Appellate Tribunal after filing second appeal, department may proceed with the recovery through the bank attachment.</p>

<b>2020 PTD 348</b> (Appellate Tribunal-SRB) Decided on May 13, 2019	Section 15A of the Sindh Sales Tax on Services Act, 2011	The learned Appellate Tribunal-SRB held in this judgment that Section 15A of the Sindh Sales Tax Act, 2011 cannot be invoked to disallow the input tax claimed in sales tax returns filed before insertion said section in the law i-e 18.07.2016.
<b>2020 PTD 110</b> (Islamabad High Court) Messrs Pakistan Oilfields Limited V. FBR Decided on September 16, 2019	Article 199 of Constitution of Pakistan	<p>The Honorable High Court of Islamabad in this case has dilated upon the issue of maintainability constitutional petition against a show cause notice. It has been held that as general rule writ petition under article 199 of the Constitution is not maintainable against a show cause notice, however there are certain exceptions under which such petition is maintainable. Such exceptional circumstances are listed below;</p> <ul style="list-style-type: none"> <li>A. Where the impugned notice is without jurisdiction / lawful authority;</li> <li>B. Where the impugned notice is <i>non est</i> in the eyes of law;</li> <li>C. Where the impugned notice is patently illegal;</li> <li>D. Where the impugned notice is issued with premeditation or without application of mind for extraneous reasons</li> <li>E. Where the aggrieved person does not have adequate and efficacious remedy;</li> <li>F. Where the issues of show cause notice violate any fundamental rights of the aggrieved person;</li> <li>G. Where there is an important question of law that requires interpretation of any fiscal or any other substantial law.</li> </ul>
<b>2020 PTD 1068</b> (Inland Appellate Tribunal) Decided on September 26, 2019	Section 2(46) & 3 of the Sales Tax Act, 1990	<p>Through this judgment, the Full Bench of the Learned Appellate Tribunal Inland Revenue has decided the controversy regarding chargeability of sales tax on amount of subsidy received from the government of Pakistan in respect of electricity supplied by Peshawar Electric Supply Company (PESCO) to consumers.</p> <p>It has been held that since the amount of subsidy received is not the consideration received from the recipient of supply, further, hence it is sort of compensation rather than revenue in nature, therefore the same cannot be brought under the ambit of value of taxable supplies under Section 2(46) of the Sales Tax Act, 1990. Hence sales tax is not chargeable on amount of subsidy received from the Government.</p>
<b>2020 PTD 101</b> (Lahore High Court) Nishat Mills Limited V. Federation Of Pakistan Decided on October 24, 2019	Section 8(1)(h) of the Sales Tax Act, 1990	In this case the petition challenging the vires of Section 8(1)(h) & (i) of Sales Tax Act, 1990 has been dismissed holding that the construction material consumed upkeep of factory building was a general business expenditure having no direct nexus with taxable supplies. Further, it has been held that the restriction under Section 8 of the Sales Tax Act, 1990 in which the underline feature is that the goods remain the part of the supply chain for claiming of input adjustment is reasonable restriction.
<b>2020 PTD 297</b> (Sindh High Court) Indus Motor Company Limited V. Pakistan Decided on	Section 25 of Sales Tax Act, 1990 Section 45 & 46 of Federal Excise Act, 2005	<p>In this judgment the Honorable High Court of Sindh dilated upon Commissioner IR's powers to select a case for total audit under Section 25 of the Sales Tax Act, 1990.</p> <p>While interpreting the provisions of Section 25 <i>ibid</i>, due process of audit selection envisaged under the law has been explained as under;</p> <ul style="list-style-type: none"> <li>a. Commissioner IR may call for records under Section 25(1) for examination by himself without assigning any reason.</li> <li>b. Only on the basis of such examination of record produced before</li> </ul>

December 13, 2019		<p>him under Section 25(1), the Commissioner IR may decide whether the audit is to be conducted under Section 25(2) by applying his independent mind and recording reasons for such decision.</p> <p>Accordingly, notice for selection of audit by Commissioner without assigning any reason, notice for requisition of record issued by the Deputy Commissioner to whom the case was delegated for conduct of audit were held illegal.</p>
<p><b>2020 PTD 752</b></p> <p>(Lahore High Court)</p> <p>Jamil Sweets V. Federation of Pakistan</p> <p>Decided on March 9, 2020</p>	<p>Section 2(43A), 3(9A) of the Sales Tax Act, 1990 and Chapter XXIV AA of Sales Tax Rules, 2006</p>	<p>Vires of provisions related to classification of retailers as Tier-1 retailers and requirement of online integration for real time reporting of supplies made by such retailers were challenged by various registered persons invoking writ jurisdiction.</p> <p>The Honorable Court dismissed such petitions holding that provisions of the relevant Rules are intra vires the Sales Tax Act, 1990 and satisfy the statutory mandate of sections 3(9A) and 40C thereof and do not offend any fundamental right of the petitioners.</p>
<p><b>2020 PTD 776</b></p> <p>(Islamabad High Court)</p> <p>Collector Sales Tax V. Messrs Flying Kraft Paper Mills (Pvt.) Limited</p> <p>Decided on March 11, 2020</p>	<p>Section 7 &amp; 8 of the Sales Tax Act, 1990</p>	<p>In this case question of law regarding admissibility of input tax paid on utilities consumed in labor colony situated within the manufacturing premises had been referred to honorable Islamabad High Court vide reference application filed under Section 47 of the Sales Tax Act, 1990.</p> <p>The Honorable Court while deciding the issue observed that the electricity consumed in residences provided to workers engaged in the process of manufacturing of taxable goods within manufacturing premises is directly related to the taxable activity. Section 7 of the Sales Tax Act, 1990 being beneficial provision of law is to be interpreted liberally in favour of the taxpayer.</p> <p>Accordingly, it has been held that sales tax paid on electricity/gas consumed in labor colony situated within factory is admissible input tax.</p>

## CHARACTERISTICS OF A LAWYER / TAX CONSULTANT – A BRIEF OVERVIEW

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### Introduction

Character and Ethics in any profession are the foremost important otherwise the professionals have become slaves of unlimited desire and lust, making blunders knowingly and unknowingly. We discuss briefly characteristics of a lawyer / tax consultant with quotations of renowned personalities.

### Duty of an advocate / tax consultant

According to Lord Macmillan, the duty of an advocate is five-fold. In the discharge of his office, the advocate has a duty to his client, a duty to his opponent, a duty to the court, a duty to himself and a duty to the State. To maintain a perfect poise and keep a balance amongst the various and sometimes conflicting claims is a task not free from difficulty. So far as the prosecuting counsel are concerned an additional duty devolves upon them - their conduct of the case must be marked by a sense of fairness. A prosecuting counsel is an officer of justice: he must present the case against the accused relentlessly but with scrupulous fairness.

### To be Fair

In England today every counsel who is instructed for the prosecution knows how essential it is to be fair. The country expects it. The judges require it. He must not press for a conviction. If he knows of a point in favor of the prisoner, he must bring it out. He must state the facts quite dispassionately, whether they tell in favor of a severe sentence or otherwise. No counsel would dream of doing otherwise. This essential qualification was never better expressed than it was in 1864 by **Lord Chief Justice Cockburn**;

*“An advocate must be fearless in carrying out the interest of his client: but I couple that with this qualification and this restriction that the arms which he wields are to be the arms of the warrior and not of the assassin. It is his duty to strive to accomplish the interests of his clients per fas, but not per nefas; it is his duty to the utmost of his power to seek to reconcile the interests he is bound to maintain, and the duty it is incumbent upon him to discharge with the eternal and immutable interests of truth and justice.”*

### To be truthful

Take next the sort of question which a barrister is asked every day. A man who is about to give evidence says: “If I am asked such and such a question, what shall I say? “The only proper answer is: You must tell the truth, whether it hurts your case or not.” I have been asked the question by a man charged with murder. My answer was the same: You must tell the truth whatever the consequences.” It is one of the cardinal rules of the English Bar.

So also when points of law arise, it is the duty of counsel to inform the court, not only of the cases in his favour but also of those against him. Even if the opposing counsel has not found them, he must himself cite them in pursuance of his duty to see that justice is done.

**[The Honest Lawyer by the Right Hon. Lord Denning]****Seven lamps of advocacy**

**Judge Abbot Parry** mentions Honesty, Courage, Industry, Wit, Eloquence, Judgment and Fellowship as the seven lamps of advocacy.

Dealing with Honesty, he says that the best advocates of all generations have been devotees of honesty, and cites the case of Abraham Lincoln who founded his fame and success on what some called 'perverse honesty'.

Referring to Courage, he says: 'Advocacy is a form of combat, where courage in danger is half the battle. Courage is as good a weapon in the forum as in the camp.'

'Advocacy', he says, is indeed a life of Industry, and an advocate must study his brief in the same way that an actor studies his part. Success in advocacy is not arrived at the intuition.

The lamp of Wit is needed to lighten the darkness of advocacy. Often the wit of an advocate will turn a judge from an unwise course.

According to him, 'eloquence of Manner is real eloquence,' and there is a 'physical as well as psychological side to advocacy.'

As regards judgment, he refers to it essentially as an intellectual capacity, 'the inspiration' which enables a man to translate good sense into right action.

Speaking of Fellowship, he says that it is exactly like a great public school, the boys of which have grown older and have exchanged boyish for manly objects. He concludes that by keeping the lamp of fellowship burning, we encourage each other to walk in the light of seven lamps of advocacy.

**Professionalism and Ethics**

Morality matters, not just because it should govern our personal behavior and the way we treat others. It should provide the context in which all affairs are conducted, and nations governed **[Roger Triggs]**.

Profession and ethics, etymologically speaking are counterparts. Historically, profession largely depends on ethics and morality, characterized by expertise, confidentiality and truthfulness to the client. That means professionalism not a goal in itself but merely a means to the goal of good performance. **[Hadia Awan, Principal, Punjab Law College, Lahore]**.

**Message of Quaid-e-Azam Muhammad Ali Jinnah to Law Students**

"Law is a noble profession and success is only attained to those who persevere, work hard, are determined and industrious, and above all have a natural aptitude for this work. **This is a great profession and you owe an obligation to yourself, your people and the client who pays you. You are not there to squeeze money or bargain**".

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## DESIGNATED NON-FINANCIAL BUSINESSES & PROFESSIONS (-DNFBPS) AND FBR'S DOMAIN IN ANTI MONEY LAUNDERING

Ever-since 09/11 tragedy "dirty money" has been tipped as potential threat for global economy and global security. Banking & NBF Companies were primarily identified as involuntary facilitator for money laundering and terror financing. Subsequently trusts & off-shore entities and various professions like real-estate sector, jewelers/gem dealers, lawyers and accountants were also acknowledged being un-vetting facilitator for money laundering & terror financing. In this wake Pakistan had promulgated Anti Money Laundering Act, 2010 (-Act, 2010) with Financial Monitoring Unit (FMU) being sole regulatory authority for the purpose of anti-money laundering in the country. However, on the recommendation of FATF, the Act, 2010 had lately witnessed drastic amendments to cover the gaps and various other authorities were shouldered the responsibility to regulate professions & trades (-DNFBP) that are potentially linked with money laundering & terror financing consequences. By way amendment made in Sept 2020, Section 6A read with the Schedule IV of Anti Money Laundering Act 2010 was inserted whereby following regulatory authorities have been entrusted with powers to regulate and administer their respective domains for the purpose of money laundering & terror financing.

AML/CFT Regulatory authority	DOMAIN (Entities, Professions, Trades)
State Bank of Pakistan	Entities regulated or licensed by SBP such as Banks, NBFCs, Money transfer & Currency exchange companies, etc.
Securities & Exchange Commission of Pakistan	Entities regulated or licensed by SECP such as NPOs, Companies, PMEX, PSX, etc.
Federal Board of Revenue	Real-estate agents including builders & developers Jewelers including dealers of precious metals & stones Accountants like ACCA, CPA etc.
National Savings	National Savings schemes
Institute of Chartered Accounts of Pakistan	Chartered Accountants registered with ICAP
Institute of Cost & Management Accounts of Pakistan	Cost & Management Accountants registered with ICMAP
Pakistan Bar Council	Lawyers & other independent legal professionals registered with PBC etc.

Pursuant to above the Federal Board of Revenue had issued SRO 924(I)/2020 dated 29/09/2020 to regulate DNFBPs (Real-estate agents, Jewelers, Accountants) assigned to it; whereas countrywide jurisdictional hierarchy has also been created via SRO 1319(I)/2020 dated 10/12/2020 by the FBR for this purpose.

In view of above the DNFBPs (Real-estate agents, Jewelers, Accountants) under FBR are required to get themselves registered at FBR's IRIS portal. The rules require Real-estate agents, Jewelers & dealers of gems/precious stones, Accountants to internally evolve compliance management system which require use of technology & employment of technical professionals, to identify/foresee suspicious transactions and mitigate risk of AML/CFT consequences in respect of transactions facilitated by them. It is also imperative for them to

maintain record keeping & undertake enhanced due diligence of their customers, provided that simplified due diligence will suffice for lower risk transactions. In order to arrest “benami” practices the Real-estate agents, Jewelers, Accountants are required to carry out reasonable investigation to identify “beneficial ownership” of such asset. In all situations of suspected transactions, the Real-estate agents, Jewelers, Accountants are required to report the same to FBR and FMU. It is however interesting to note that no penalty is prescribed in the rules for default/noncompliance, although powers are given to the Regulator (-FBR) to impose prescribed penalty on the strength of Sec 6A(h) of Act 2010. Similarly, no form is prescribed albeit Section 7 of Act 2010 requires compliance to rules in a classified manner. Meanwhile DNFBPs are given immunity from civil or criminal proceeding for sharing information with Regulator if they are barred from doing so in their respective regulatory legislations.

The inclusion of jeweler & gem dealers into the fold of FBR is however strange as Pakistan Mercantile Exchange (-PMEX) is the statutory authority to regulate dealers & traders of gems/jewelry. Also, absence of development authorities like DHA, CDA, KDA, etc. along with FBR. for the purpose of AML/CFT in real estate sector is incomprehensible.

Tailpiece: Other professions & trades under DNFBP will continue to be regulated by their respective Regulatory authorities as mentioned in Schedule.

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