

FOR CLIENTS ONLY

RE: COMMENTS ON PROPOSED TAX LAWS (AMENDMENT) ACT, 2024 [BILL]

The Government of Pakistan has introduced the Tax Law Amendment Bill, 2024 proposing to introduce pecuniary jurisdiction in respect of hierarchy of the appellate forums under the fiscal statutes. The Bill also proposes to curtail the jurisdiction of Commissioner Inland Revenue (Appeals). All changes proposed through this Bill are subject to approval by the National Assembly and Presidential assent.

This document attempts to summarize such proposed amendments.

RHZA

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Karachi.

26th April 2024.

Disclaimer

We are under no obligation to update our comments for events and circumstances occurring after the date of this document. The comments in this document are a matter of interpretation of law and are based on our understanding of tax laws and our experiences. Accordingly, it cannot be said with certainty that the comments provided in this document will be accepted by the tax authorities. Furthermore, in no event will the Firm, its related partnerships or corporations, or partners, agents or employees thereof be liable to the readers or anyone else for any decision made or action taken in reliance on the information herein or for any consequential, special or similar damages, whether financial or otherwise. The readers are requested to seek specific opinion on issues emanating from the subject SRO/Notification.

PROPOSED AMENDMENTS IN SALES TAX ACT, 1990 [STA, 1990]

| UNDER SALES TAX ACT 1990 | PRESENT POSITION | PROPOSED AMENDMENTS VIDE TAX LAWS (AMENDMENT) BILL 2024 [THE AMENDMENTS ARE SHOWN IN RED] | COMMENTS |
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| 43A | Non-Existent | <p>43A. Pecuniary jurisdiction in appeals.-</p> <p><i>(1) Subject to other provisions of this Act,-</i></p> <p><i>(a) an appeal to the Commissioner (Appeals) shall lie where the value of assessment of tax or, as the case may be, refund of tax does not exceed ten million [10 million] rupees; or</i></p> <p><i>(b) an appeal to the Appellate Tribunal Inland Revenue shall lie where the value of assessment of tax or, as the case may be, refund of tax exceeds ten million [10 million] rupees.</i></p> <p><i>(2) The cases pending before the Commissioner (Appeals) having the value of assessment of tax or, as the case may be, refund of tax exceeding ten million [10 million] rupees shall on and from the 16th day of June, 2024 stand transferred to the Appellate Tribunal In land Revenue.</i></p> <p><i>(3) All cases transferred from the Commissioner (Appeals) to the Appellate Tribunal under sub-section (2) shall be decided by the Appellate Tribunal within the period provided for under section 132 of the Income Tax Ordinance, 2001 (XLIX of 200 1) which period shall commence from the 16th day of June, 2024</i></p> | <p>Through this amendment, pecuniary jurisdiction in appeals under the Sales Tax Act, 1990 [STA] is being proposed to be introduced in the matters pertaining to assessment of tax and refund cases.</p> <p>The forum of Commissioner Appeals [CIRA] will now entertain cases having pecuniary threshold of PKR ten [10] million or less.</p> <p>All pending cases not decided by the Commissioner Inland Revenue (Appeals) by June, 16 2024 exceeding pecuniary jurisdiction mentioned above shall stand transferred to the Appellate Tribunal.</p> <p>In our opinion the stay order from recovery of demand issued by the CIR(A) in which stay period has not expired on 16-06-2024 shall be effective till the fresh stay issued by the ATIR.</p> <p>The forum of Appellate Tribunal Inland Revenue [ATIR] will now deal with cases having pecuniary threshold in excess of PKR ten [10] million where the ATIR is required to decide such cases within ninety [90] days from 16th June 2024 for existing [transferred] cases and within ninety [90] days from the date of filing for new/fresh cases.</p> |

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| <p>45B</p> | <p>45B. Appeals.-</p> <p>(1 Any person, other than the Sales Tax Department, aggrieved by any decision or order passed under sections 10, 11, 25, 36, or 66, by an officer of Inland Revenue may, within thirty days of the date of receipt of such decision or order, prefer appeal to the Commissioner Inland Revenue (Appeals):</p> <p>Provided that an appeal preferred after the expiry of thirty days may be admitted by the Commissioner Inland Revenue (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within the specified period.</p> <p>(1A) An appeal under sub-section (1) shall-</p> <p>(a) be in the prescribed form; (b) be verified in the prescribed manner; (c) state precisely the grounds upon which the appeal is made; (d) be accompanied by the prescribed fee specified in sub-section (1B); and (e) be lodged with the Commissioner (Appeals) within the time set out in sub-section (1).</p> <p>(1B) The prescribed fee shall be-</p> <p>(a) in the case of an appeal against an assessment-</p> <p>(i) where the appellant is a company, five thousand rupees; or (ii) where the appellant is not a company, two thousand and five hundred rupees; and</p> <p>(b) in any other case-</p> | <p>45B. Appeals.-</p> <p>(1 Any person, other than the Sales Tax Department, aggrieved by any decision or order, <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed ten million rupees</i>, passed under sections 10, 11, 25, 36, or 66, by an officer of Inland Revenue may, within thirty days of the date of receipt of such decision or order, <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed ten million rupees</i>, prefer appeal to the Commissioner Inland Revenue (Appeals):</p> <p>Provided that an appeal preferred after the expiry of thirty days may be admitted by the Commissioner Inland Revenue (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within the specified period.</p> <p>(1A) An appeal under sub-section (1) shall-</p> <p>(a) be in the prescribed form; (b) be verified in the prescribed manner; (c) state precisely the grounds upon which the appeal is made; (d) be accompanied by the prescribed fee specified in sub-section (1B); and (e) be lodged with the Commissioner (Appeals) within the time set out in sub-section (1).</p> <p>(1B) The prescribed fee shall be-</p> <p>(a) in the case of an appeal against an assessment-</p> <p>(i) where the appellant is a company, five thousand rupees; or (ii) where the appellant is not a company, two thousand and five hundred rupees; and</p> <p>(b) in any other case-</p> <p>(i) where appellant is a company, five thousand rupees; or (ii) where the appellant is not a company, one thousand rupees.</p> | <p>Through this proposed amendment in our opinion there is no restriction under this Section for SOE if it comes within pecuniary jurisdiction.</p> |
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| | <p>(i) where appellant is a company, five thousand rupees; or</p> <p>(ii) where the appellant is not a company, one thousand rupees.</p> <p>(1C) Where in a particular case, the Commissioner (Appeals) is of the opinion recovery of tax levied under this act, shall cause undue hardship to the taxpayer, he, after affording opportunity of being heard to the commissioner or officer of Inland revenue against whose orders appeal has been made, may stay the recovery of such tax for a period not exceeding thirty days in aggregate.</p> <p>(2) The Commissioner Inland Revenue (Appeals) may, after giving both parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, varying, altering, setting aside or annulling the decision or order appealed against:</p> <p>Provided that such order shall be passed not later than [one hundred and twenty] days from the date of filing of appeal or within such extended period as the [Commissioner] (Appeals) may, for reasons to be recorded in writing fix:</p> <p>Provided further that such extended period shall, in no case, exceed [sixty] days:</p> <p>Provided further that any period during which the proceedings are adjourned on account of a stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the</p> | <p>(1C) Where in a particular case, the Commissioner (Appeals) is of the opinion recovery of tax levied under this act, shall cause undue hardship to the taxpayer, he, after affording opportunity of being heard to the commissioner or officer of Inland revenue against whose orders appeal has been made, may stay the recovery of such tax for a period not exceeding thirty days in aggregate.</p> <p>(2) The Commissioner Inland Revenue (Appeals) may, after giving both parties to the appeal an opportunity of being heard, pass such order, <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed ten million rupees</i>, as he thinks fit, confirming, varying, altering, setting aside or annulling the decision or order appealed against:</p> <p>Provided that such order, <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed ten million rupees</i>, shall be passed not later than [one hundred and twenty] days from the date of filing of appeal or within such extended period as the [Commissioner] (Appeals) may, for reasons to be recorded in writing fix:</p> <p>Provided further that such extended period shall, in no case, exceed [sixty] days:</p> <p>Provided further that any period during which the proceedings are adjourned on account of a stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the petitioner not exceeding thirty days shall be excluded from the computation of aforesaid periods.</p> <p>(3) In deciding an appeal, the [Commissioner of Inland Revenue] (Appeals) may make such further inquiry as may be necessary provided that he shall not remand the case for de novo consideration.</p> <p>(5) The Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before the Officer Inland Revenue unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing</p> | |
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| <p><i>petitioner not exceeding thirty days shall be excluded from the computation of aforesaid periods.</i></p> <p><i>(3) In deciding an appeal, the [Commissioner of Inland Revenue] (Appeals) may make such further inquiry as may be necessary provided that he shall not remand the case for de novo consideration.</i></p> <p><i>(5) The Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before the Officer Inland Revenue unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Officer Inland Revenue.]</i></p> | <p><i>such material or evidence before the Officer Inland Revenue.]</i></p> | |
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| <p>46</p> | <p>46. Appeals to Appellate Tribunal.-</p> <p>(1) Any person including an officer of [Inland Revenue] (not below the rank of an [Additional Commissioner], aggrieved by any order passed by-</p> <p>(a) the [Commissioner Inland Revenue] (Appeals) under section 45B,</p> <p>(b) the [Commissioner Inland Revenue] through adjudication or under any of the provisions of this Act or rules made thereunder,</p> <p>(c) the Board under section 45A, may, within sixty days of the receipt of such decision or order, prefer appeal to the Appellate Tribunal.</p> <p>(2) The Appellate Tribunal may admit, hear and dispose of the appeal as per procedure laid down in sections [131 and 132 of the Income tax Ordinance, 2001(XLIX of 2001, and rules made thereunder.]</p> <p>(2A) All appeals and proceedings under this Act pending before the customs, Excise and Sales Tax Appellate Tribunal Constituted under section 194 of the customs Act 1969(IV of 1969) shall stand transferred to the Appellate Tribunal constituted under section 130 of the Income Tax Ordinance 2001 (XLIX of 2001) with effect from 28th Day of October 2009.</p> | <p>46. Appeals to Appellate Tribunal.-</p> <p><i>(1) Any person, other than an SOE, aggrieved by any order passed by an Officer of Inland Revenue, the Board or Commissioner (Appeals) under this Act or the rules made there under may, within thirty days of the receipt of such order, prefer an appeal to the Appellate Tribunal:</i></p> <p><i>Provided that where sub-section (11) of section 134A of Income Tax Ordinance, 2001(XLIX of 2001) shall apply, an SOE may prefer an appeal under this sub-section.</i></p> <p><i>Sub-section 2A is proposed to be omitted.</i></p> | <p>Through this amendment it is proposed that in cases of orders passed by an Officer of Inland Revenue [OIR], the Board, and CIRA, an appeal may be filed before the ATIR against such orders within thirty [30] days of the date of receipt of such order. This is applicable in the case of taxpayers other than State-Owned Enterprises [SOE].</p> <p>The stark difference in proposed amendment that the SOE has been excluded from filing of appeal before ATIR without any pecuniary jurisdiction, however, SOE shall refer case, if aggrieved, before Alternate Dispute Resolution [ADR] in case the ADR committee fails to decide within prescribe time of sixty days such SOE may file appeal before ATIR.</p> <p>SOE means the Federal Government directly or indirectly has the right to appoint a majority of directors or decisions, exercisable by a person individually or through any person acting in concert, directly or indirectly, whether by virtue of Federal Government shareholding, management, right, shareholders agreement, voting agreement or otherwise; or</p> <p>In the case of an entity created by an Act of the Majlis-e-Shoora, if the FG has the power to appoint a majority of the persons who are directors of that entity or otherwise has the power to determine the outcome of decisions about the entity's management or financial and operating policies.</p> |
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| <p>47</p> | <p>47. Reference to the High Court. –</p> <p>(1) Within ninety days of the communication of the order of the Appellate Tribunal under sub-section (2) of section 46, the aggrieved person or any officer of [Inland Revenue] not below the rank of an [an Additional [Commissioner], authorized by the [Commissioner] may prefer an application in the prescribed form along with a statement of the case to the High Court, stating any question of law arising out of such order.</p> <p>(2) The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law, which arises out of its order.</p> <p>(3) Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order referred to in sub-section (1), may proceed to hear the case.</p> <p>(4) A reference to the High Court under this section shall be head by a bench of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908) shall apply, so far as may be, notwithstanding anything contained in any other law for the time being in force.</p> <p>(5) The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and deliver judgment thereon</p> | <p>47. Reference to the High Court.-</p> <p><i>(1) Within thirty days of the communication of the order of the Appellate Tribunal, the aggrieved person or the Commissioner may prefer an application, in the prescribed form along with a statement of the case and the complete record of the Appellate Tribunal to the High Court, stating any question of law arising out of such order.</i></p> <p><i>(2) Provisions of section 133 of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder relating to a reference to the High Court shall, mutatis mutandis, apply to references to the High Court under this Act.</i></p> <p><i>All other sub-sections are proposed to be omitted.</i></p> | <p>Through this proposed amendment the entire complexion of provision has taken paradigm shift namely:</p> <ul style="list-style-type: none"> i) The prescribed time of filling of reference has been reduced from ninety days to thirty days from the date of communication of the order of Trib. ii) The time limit to decide a reference within six months has been fixed. iii) No recovery of tax demand shall be made within thirty days of the date of order of Trib. iv) As a result of order of Honorable High Court if a refund arises, the Commissioner, within thirty days from the date of such judgment, may file an application that he wants to prefer appeal before Honorable Supreme Court of Pakistan to postpone the refund until the disposal of appeal filed before Honorable Supreme Court. v) On application of stay filed by the taxpayer the same shall be decided upon providing proper opportunity of being heard to the Commissioner, the Honorable High Court may grant stay from recovery of tax demand to the department subject to deposit of thirty percent of tax demand determined by the Trib. The |
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| <p><i>specifying the grounds on which such judgment is based and the order of the Tribunal shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.</i></p> <p><i>(6) The cost of any reference to the High Court shall be in the discretion of the Court.</i></p> <p><i>(7) Notwithstanding that a reference has been made to the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal:</i></p> <p><i>Provided that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court, and amount of tax found refundable by the High Court, the High Court may on application [by an Additional [Commissioner] authorized] by the [Commissioner] within thirty days of the receipt of the judgment of the High Court that he intends to seek leave to appeal to the Supreme Court, make an order authorizing the Collector to postpone the refund until the disposal of the appeal by the Supreme Court.</i></p> <p><i>(8) Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it is made unless the reference is decided, or such order is withdrawn, by the High Court earlier.</i></p> <p><i>(9) Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).</i></p> | | <p>stay shall remain effective for the period of six months following the day on which it was made unless the appeal is decided, or such order is withdrawn.</p> <p>vi) Reference shall be accompanied by a fee of Fifty Thousand Rupees.</p> <p>In our opinion the amendment regarding enhancement of fee and penalty which are substantive in nature are open to interpretation with regard to retrospective applicability in respect of cases/references related prior to tax year 2025 irrespective of date of filing of such cases/references.</p> |
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| | <p>(10) An application under sub-section (1) by a person other than the [Additional [Commissioner] authorized by the] [Commissioner] shall be accompanied by a fee of one hundred rupees.</p> <p>(11) Notwithstanding anything contained in any provision of this Act, where any reference or appeal was filed with the approval of [Commissioner] by the officer of lower rank than the [Commissioner], and the reference or appeal is pending before an appellate forum or the Court, such reference or appeal shall always be deemed to have been so filed by the Commissioner.</p> | | |
| <p>47A</p> | <p>47A. Alternative Dispute Resolution. –</p> <p>(1) Notwithstanding any other provision of this Act, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to –</p> <p>(a) the liability of tax of one hundred million rupees or above against the aggrieved person or admissibility of refund, as the case may be;</p> <p>(b) the extent of waiver of default surcharge and penalty; or</p> <p>(c) any other specific relief required to resolve the dispute, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an appellate authority, except</p> | <p>47 A. Alternative Dispute Resolution.-</p> <p><i>(1) Notwithstanding any other provision of this Act, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to-</i></p> <p><i>(a) the liability of tax of fifty million rupees or above against the aggrieved person or admissibility of refund, as the case may be;</i></p> <p><i>(b) the extent of waiver of default surcharge and penalty; or</i></p> <p><i>(c) any other specific relief required to resolve the dispute, may apply, except where criminal proceedings have been initiated, to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:</i></p> <p><i>Provided that where the aggrieved person is a State-Owned Enterprise (SOE), the limit of tax liability of fifty million rupees or above mentioned in clause (a) shall not apply and it shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a</i></p> | <p>Through this amendment the mechanism of Alternative Dispute Resolution [ADR] is proposed to be altered where the threshold for taxpayers other than SOE is proposed at fifty million [50 million] or above while all cases pertaining to SOEs shall be referred to the Board for constitution of ADR.</p> |

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| <p>where criminal proceedings have been initiated.</p> <p>(2) The application for dispute resolution shall be accompanied by an initial proposition for resolution of the dispute, including an offer of tax payment.</p> <p>(3) The Board may, after examination of the application of an aggrieved person, appoint a committee, within fifteen days of receipt of such application in the Board, comprising –</p> <p>(i) a retired judge not below the rank of a judge of a High Court, who shall also be the Chairperson of the Committee, to be nominated by the Board from a panel notified by the Law and Justice Division for such purpose;</p> <p>(ii) Chief Commissioner Inland Revenue having jurisdiction over the case; and</p> <p>(iii) person to be nominated by the registered person from a panel notified by the Board comprising –</p> <p>(a) chartered accountants, cost and management accountants and advocates having a minimum of ten years' experience in the field of taxation;</p> <p>(b) officers of the Inland Revenue Service who stood retired in BPS 21 or above; or</p> <p>(c) reputable businessmen as nominated by Chambers of Commerce and Industry; Provided that the registered person shall not nominate a chartered accountant or an advocate if the said chartered</p> | <p>committee for the resolution of any dispute under this section:</p> <p><i>Provided further that no suit, prosecution, or other legal proceedings shall lie against the SOE in relation to the dispute resolved under this section.</i></p> <p><i>Explanation.- State-Owned Enterprise shall have the same meaning as assigned thereto in the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023).</i></p> <p><i>(2) Provisions of section 134A of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder relating to Alternative Dispute Resolution shall, mutatis mutandis, apply to applications for alternative dispute resolution under this Act.</i></p> | |
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accountant or the advocate is or has been an auditor.

(4) The Board shall communicate the order of appointment of committee to the aggrieved person, court of law or the appellate authority where the dispute is pending and the concerned Commissioner.

(5) The committee appointed under sub-section (3) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute by majority, within forty-five days of its appointment extendable by another fifteen days for the reasons to be recorded in writing.

(6) The decision by the committee under sub-section (5) shall not be cited or taken as a precedent in any other case or in the same case for a different tax year.

(7) The recovery of tax payable by a registered person in connection with any dispute for which a committee has been appointed under sub-section (3) shall be deemed to have been stayed on the constitution of committee till the final decision or dissolution of the committee, whichever is earlier.

(8) The decision of the committee under sub-section (5) shall be binding on the Commissioner when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before the court of law or any

appellate authority in respect of dispute as mentioned in sub-section (1) and has communicated the order of withdrawal to the Commissioner:

Provided that if the order of withdrawal is not communicated to the Commissioner within sixty days of the service of decision of the committee upon the aggrieved person, the decision of the committee shall not be binding on the Commissioner.

(9) Subject to sub-section (10), the Commissioner shall also withdraw the appeal, if any, pending before any court of law or an appellate authority in respect of dispute as mentioned in sub-section (1) within thirty days of the communication of the order of withdrawal by the aggrieved person to the Commissioner.

(10) The aggrieved person shall make the payment of sales tax and other duty or taxes and within such time as decided by the committee under sub section (5) and all decisions and orders made or passed shall stand modified to that extent.

(11) If the committee fails to decide within the period of sixty days under sub-section (5), the Board shall dissolve the committee by an order in writing and the matter shall be decided by the court of law or the appellate authority where the dispute is pending under litigation.

(12) The Board shall communicate the order of dissolution of the committee to

the aggrieved person, court of law or the appellate authority and the Commissioner.

(13) On receipt of the order of dissolution of the committee, the court of law or the appellate authority shall decide the appeal within six months of the communication of said order.

(14) The Board may prescribe the amount to be paid as remuneration for the services of the members of the committee, other than the member appointed under clause (ii) of sub-section (3).

(15) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

PROPOSED AMENDMENTS IN FEDERAL EXCISE ACT 2005 [FED, 2005]

With respect to the Federal Excise Act 2005, the proposed amendments are consistent with the amendments as proposed in the Sales Tax Act 1990 except the pecuniary jurisdiction is prescribed at five [05] million rupees or less in case of CIRA and in excess of five [05] million rupees in case of ATIR.

PROPOSED AMENDMENTS IN INCOME TAX ORDINANCE, 2001 [ITO, 2001]

| UNDER ITO 2001 | PRESENT POSITION | PROPOSED AMENDMENTS VIDE TAX LAWS (AMENDMENT) BILL 2024 [THE AMENDMENTS ARE SHOWN IN RED] | COMMENTS |
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| 122A | <p>122A. Revision by the Commissioner. –</p> <p>(1) The Commissioner may, suomoto, call for the record of any proceeding under this Ordinance or under the repealed Ordinance in which an order has been passed by any [Officer of Inland Revenue] other than the Commissioner (Appeals).</p> <p>(2) Subject to sub-section (3), where, after making such inquiry as is necessary, Commissioner considers that the order requires revision, the Commissioner may [suomoto] make such revision to the order as the Commissioner deems fit.</p> <p>(3) An order under sub-section (2) shall not be prejudicial to the person to whom the order relates.</p> <p>(4) The Commissioner shall not revise any order under sub-section (2) if–</p> <p>(a) an appeal against the order lies to the Commissioner (Appeals) or to the Appellate Tribunal, the time within which such appeal may be made has not expired; or</p> <p>(b) the order is pending in appeal before the Commissioner (Appeals) or has been made the subject of an appeal to the Appellate Tribunal.]</p> <p>(5) If any order is remanded back to any lower authority by</p> | <p>122A. Revision by the Commissioner. –</p> <p>(1) The Commissioner may, suomoto, call for the record of any proceeding under this Ordinance or under the repealed Ordinance in which an order has been passed by any [Officer of Inland Revenue] other than the Commissioner (Appeals) if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees.</p> <p>(2) Subject to sub-section (3), where, after making such inquiry as is necessary, Commissioner considers that the order requires revision, the Commissioner may [suomoto] make such revision to the order as the Commissioner deems fit.</p> <p>(3) An order under sub-section (2) shall not be prejudicial to the person to whom the order relates.</p> <p>(4) The Commissioner shall not revise any order under sub-section (2) if–</p> <p>(a) an appeal against the order lies to the Commissioner (Appeals) or to the Appellate Tribunal, the time within which such appeal may be made has not expired; or</p> <p>(b) the order is pending in appeal before the Commissioner (Appeals) or has been made the subject of an appeal to the Appellate Tribunal.]</p> <p>(5) If any order is remanded back to any lower authority by the Commissioner for modification, alteration, implementation of directions or de novo proceedings, the order giving effect to the directions of the Commissioner shall be issued within one hundred and twenty days.</p> | <p>Through this amendment, it is proposed that the revisional jurisdiction of the Commissioner has been restricted to the pecuniary threshold of twenty million [20 million] rupees or less.</p> |

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| | <p><i>the Commissioner for modification, alteration, implementation of directions or de novo proceedings, the order giving effect to the directions of the Commissioner shall be issued within one hundred and twenty days.</i></p> | | |
| <p>124</p> | <p>124. Assessment giving effect to an order. –</p> <p><i>(1) Except where sub-section (2) applies, where, in consequence of, or to give effect to, any finding or direction in any order made under Part III of this Chapter by the Commissioner (Appeals), Appellate Tribunal, High Court, or Supreme Court an assessment order or amended</i></p> | <p>124. Assessment giving effect to an order. –</p> <p><i>(1) Except where sub-section (2) applies, where, in consequence of, or to give effect to, any finding or direction in any order made under Part III of this Chapter by the Commissioner (Appeals) if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees, Appellate Tribunal, High Court, or Supreme Court an assessment order or amended assessment order is to be issued to any person, the</i></p> | <p>Through this amendment, it is proposed that the appeal effect jurisdiction of the CIRA has been restricted to the pecuniary threshold of twenty million [20 million] rupees or less.</p> |

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| <p>assessment order is to be issued to any person, the Commissioner shall issue the order within two years from the end of the financial year in which the order of the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court, as the case may be, was served on the Commissioner.</p> <p>(2) Where, by an order made under Part III of this Chapter by the Appellate Tribunal, High Court, or Supreme Court, an assessment order is set aside [wholly or partly,] and the Commissioner or Commissioner (Appeals), as the case may be, is directed to [pass] a new assessment order, the Commissioner [or Commissioner (Appeals), as the case may be,] shall [pass] the new order within [one year from the end of the financial year in which] the Commissioner [or Commissioner (Appeals), as the case may be, is served with the order:</p> <p>Provided that limitation under this sub-section shall not apply, if an appeal or reference has been preferred, against the order, passed by Appellate Tribunal or a High Court.</p> <p>(3) Where an assessment order has been set aside or modified, the proceedings may commence from the stage next preceding the stage at which such setting aside or modification took place and nothing contained in this Ordinance shall render necessary the re-issue of any notice which had already been issued or the re-furnishing or re-filing of any return, statement,</p> | <p>Commissioner shall issue the order within two years from the end of the financial year in which the order of the Commissioner (Appeals) <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees,</i> Appellate Tribunal, High Court or Supreme Court, as the case may be, was served on the Commissioner.</p> <p>(2) Where, by an order made under Part III of this Chapter by the Appellate Tribunal, High Court, or Supreme Court, an assessment order is set aside [wholly or partly,] and the Commissioner [or Commissioner (Appeals) <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees,</i> as the case may be,] is directed to [pass] a new assessment order, the Commissioner or Commissioner (Appeals) <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees,</i> as the case may be,] shall [pass] the new order within [one year from the end of the financial year in which] the Commissioner [or Commissioner (Appeals) <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees,</i> as the case may be, is served with the order:</p> <p>Provided that limitation under this sub-section shall not apply, if an appeal or reference has been preferred, against the order, passed by Appellate Tribunal or a High Court.</p> | |
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| <p>or other particulars which had already been furnished or filed.</p> <p>(4) Where direct relief is provided in an order under section 129 or 132, the Commissioner shall issue appeal effect orders within two months of the date the Commissioner is served with the order.</p> <p>(5) Where, by any order referred to in sub-section (1), any income is excluded –</p> <p>(a) from the computation of the taxable income of a taxpayer for any year and held to be included in the computation of the taxable income of the taxpayer for another year; or</p> <p>(b) from the computation of the taxable income of one taxpayer and held to be included in the computation of the taxable income of another taxpayer, the assessment or amended assessment relating to that other tax year or other taxpayer, as the case may be, shall be treated as an assessment or amended assessment to be made in consequence of, or to give effect to, a finding or direction contained in such order.</p> <p>(6) Nothing in this Part shall prevent the issuing of an assessment order or an amended assessment order to give effect to an order made under Part III of this Chapter by the Commissioner (Appeals), Appellate Tribunal, High Court, or Supreme Court.</p> <p>(7) The provisions of this section shall in like manner apply to any order issued by any High Court or the Supreme Court in exercise of original or appellate Jurisdiction.</p> | <p>(6) Nothing in this Part shall prevent the issuing of an assessment order or an amended assessment order to give effect to an order made under Part III of this Chapter by the Commissioner (Appeals) <i>if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees</i>, Appellate Tribunal, High Court, or Supreme Court.</p> | |
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| 126A | Non-Existent | <p>126A. Pecuniary jurisdiction in appeals.-</p> <p><i>(1) Subject to other provisions of this Act, -</i></p> <p><i>(a) an appeal to the Commissioner (Appeals) shall lie where the value of assessment of tax or, as the case may be, refund of tax does not exceed twenty million rupees; or</i></p> <p><i>(b) an appeal to the Appellate Tribunal Inland Revenue shall lie where the value of assessment of tax or, as the case may be, refund of tax exceeds twenty million rupees.</i></p> <p><i>(2) The cases pending before the Commissioner (Appeals) having the value of assessment of tax or, as the case may be, refund of tax exceeding twenty million rupees shall on and from the 16th day of June, 2024 stand transferred to the Appellate Tribunal Inland Revenue.</i></p> <p><i>(3) All cases transferred from the Commissioner (Appeals) to the Appellate Tribunal under sub-section (2) shall be decided by the Appellate Tribunal within the period provided for under section 132 which period shall commence from the 16th day of June, 2024.</i></p> | <p>Through this amendment, pecuniary jurisdiction in appeals under the Income Tax Ordinance, 2001 [ITO] is being proposed to be introduced in the matters pertaining to assessment of tax and refund cases.</p> <p>The forum of Commissioner Appeals [CIRA] will now entertain cases having pecuniary threshold of PKR twenty [20] million or less.</p> <p>All pending cases not decided by the Commissioner Inland Revenue (Appeals) by June, 16 2024 exceeding pecuniary jurisdiction mentioned above shall stand transferred to the Appellate Tribunal.</p> <p>In our opinion the stay order from recovery of demand issued by the CIR(A) in which stay period has not expired on 16-06-2024 shall be effective till the fresh stay issued by the ATIR.</p> <p>The forum of Appellate Tribunal Inland Revenue [ATIR] will now deal with cases having pecuniary threshold in excess of PKR twenty [20] million where the ATIR is required to decide such cases within ninety [90] days from 16th June 2024 for existing [transferred] cases and within ninety [90] days from the date of filing for new/fresh cases.</p> |

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| <p>130</p> | <p>130. Appellate Tribunal.-</p> <p>(1) There shall be established an Appellate Tribunal to be called the Appellate Tribunal Inland Revenue to exercise the powers and perform the functions conferred on the Appellate Tribunal Inland Revenue by this Act.</p> <p>(2) The Appellate Tribunal Inland Revenue shall consist of a chairman and such other judicial and accountant members who shall be appointed in such numbers and in such manner as the Prime Minister may prescribe by rules, which may be made and shall take effect notwithstanding anything contained in section 237 or any other law or rules for the time being in force.</p> <p>(3) No person shall be appointed as judicial member of an Appellate Tribunal Inland Revenue unless he –</p> <p>(a) has been a Judge of a High Court;</p> <p>(b) is or has been a District Judge; or</p> <p>(c) is an advocate of a High Court with a standing of not less than ten years; or</p> <p>(d) possesses such other qualification as may be prescribed under sub-section (2) of this section.</p> <p>(4) No person shall be appointed as an accountant member of a Appellate Tribunal Inland Revenue unless he –</p> <p>(a) is an officer of the Inland Revenue Service equivalent in rank to that of [Chief Commissioner Inland Revenue];</p> | <p>130. Appellate Tribunal.-</p> <p>(1) There shall be established an Appellate Tribunal Inland Revenue hereinafter called as the Appellate Tribunal to exercise jurisdiction, conferred on it under this Ordinance.</p> <p><i>Provided that the existing members including Chairman of the Appellate Tribunal shall continue to hold office, on the same terms and conditions as applicable to them prior to the commencement of the Tax Laws (Amendment) Act, 2024 (of 2024), till the completion of their term of office unless removed earlier on the grounds provided in the proviso to sub-section (5).</i></p> <p>(2) The Appellate Tribunal shall consist of members who shall be appointed by the Federal Government in such numbers, in accordance with such procedure and on such terms and conditions as the Federal Government may prescribe by rules, which shall be made and take effect notwithstanding anything contained in section 237 of this Ordinance or the Federal Public Service Commission Ordinance, 1977 (XL V of 1977) or any other law or rules, for the time being in force.</p> <p>(3) A person shall be eligible to be appointed as a member of the Appellate Tribunal if he-</p> <p>(a) is an advocate of a High Court for not less than fifteen years and possesses such other qualifications as may be prescribed by rules;</p> <p>(b) has for a period of not less than ten years practiced professionally as a chartered accountant within the meaning of the Chartered Accountants' Ordinance, 1961 (X of 1961);</p> <p>(c) is an Officer of the Inland Revenue in BS-21 or above; or</p> <p>(d) is an Officer of the Inland Revenue in BS-20, having served in such grade for three years or more.</p> <p>(4) The Federal Government shall appoint any member possessing qualifications provided in clauses (a) and (b) of sub-section (3) as Chairman of the Appellate Tribunal. The Chairman shall hold office for a period of three years provided that the Federal Government may reappoint the Chairman for such further term or terms as it may deem appropriate.</p> | <p>The Rules have been framed in the light of judgement of Honorable Lahore High Court in case titled as Lahore tax Bar Association vs. Federation of Pakistan etc., reported as PTCL 2024 CL. 26.</p> |
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| | <p>(b) is a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) having not less than three years experience as Commissioner;</p> <p>(c) has for a period of not less than ten years practiced professionally as a chartered accountant within the meaning of the Chartered Accountants' Ordinance, 1961 (X of 1961); or</p> <p>(d) has for a period of not less than ten years practiced professionally as a cost and management accountant within the meaning of the Cost and Management Accountant' Act, 1966 (XIV of 1966).</p> <p>(5) The constitution, functioning of benches and procedure of the Appellate Tribunal Inland Revenue shall be regulated by rules which the Prime Minister may prescribe.</p> <p>(6) The rules in respect of the matters covered under this section made prior to commencement of the Tax Laws (Second Amendment) Ordinance, 2019 shall continue in force unless amended or repealed.</p> | <p>(5) <i>The members including, the Chairman shall cease to hold office on attaining the age of sixty-two years provided that the members falling under clauses (c) and (d) of sub-section (3) shall cease to hold office on attaining the age of superannuation, under the law regulating their service:</i></p> <p><i>Provided that a member including the Chairman may be removed by the Federal Government, on the recommendation of performance review committee, to be constituted by the rules made under sub-section (2), at any time before the expiry of his term or attaining the age of superannuation, as the case may be, on grounds, inter-alia, of inefficiency or misconduct, as prescribed by the rules made under sub-section (2).</i></p> <p>(6) <i>The procedure of the Appellate Tribunal Inland Revenue including constitution of benches, case management system, distribution of cases and other matters ancillary or incidental thereto shall be regulated by the rules made under sub-section (2).</i></p> | |
| <p>131</p> | <p>131. Appeal to the Appellate Tribunal. –</p> <p>(1) Where the [taxpayer] or Commissioner objects to an order passed by the Commissioner (Appeals), the [taxpayer] or Commissioner may appeal to the Appellate Tribunal against such order.</p> <p>(2) An appeal under sub-section (1) shall be–</p> <p>(a) in the prescribed form;</p> <p>(b) verified in the prescribed manner;</p> | <p>131. Appeal to the Appellate Tribunal. –</p> <p>(1) <i>Any person, other than an SOE, aggrieved by any order passed by an Officer of Inland Revenue or Commissioner or Chief Commissioner or the Board or Commissioner (Appeals) under this Ordinance or the rules made thereunder may, within thirty days of the receipt of such order, prefer an appeal to the Appellate Tribunal:</i></p> <p><i>Provided that where sub-section (11) of section 134A apply, an SOE may prefer an appeal under this sub-section. (2) An appeal under sub-section (1) shall be ---</i></p> <p>(a) <i>in the prescribed form;</i></p> <p>(b) <i>verified in the prescribed manner;</i></p> | <p>Through this amendment it is proposed that in cases of orders passed by an Officer of Inland Revenue [OIR], the Board, and CIRA, an appeal may be filed before the ATIR against such orders within thirty [30] days of the date of receipt of such order. This is applicable in the case of taxpayers other than State-Owned Enterprises [SOE].</p> <p>The stark difference in proposed amendment that the SOE has been excluded from filing of appeal before ATIR without any pecuniary jurisdiction,</p> |

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| <p>(c) accompanied, except in case of an appeal preferred by the Commissioner, by the prescribed fee specified in sub-section (3); and</p> <p>(d) preferred to the Appellate Tribunal within sixty days of the date of service of order of the Commissioner (Appeals) on the taxpayer or the Commissioner, as the case may be.</p> <p>(3) The prescribed fee shall be five thousand rupees in case of a company and two thousand rupees in case other than a company.</p> <p>(4) The Appellate Tribunal may, upon application in writing, admit an appeal after the expiration of the period specified in clause (d) of sub-section (2) if it is satisfied that the person appealing was prevented by sufficient cause from filing the appeal within that period.</p> <p>(5) Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case:</p> <p>Provided that if on filing of application in a particular case, the Appellate Tribunal is of the opinion that the recovery of tax levied under this Ordinance and upheld by the Commissioner (Appeals), shall cause undue hardship to the taxpayer, the Tribunal, after affording opportunity of being heard to the Commissioner, may stay the recovery of such tax for a period not exceeding one hundred and eighty days in aggregate:</p> | <p>(c) accompanied, by the prescribed fee specified in sub-section (3); and</p> <p>(d) preferred to the Appellate Tribunal within thirty days of the date of service of order on the taxpayer.</p> <p>(3) The prescribed fee shall be twenty thousand rupees in case of a company and five thousand rupees in case other than a company.</p> <p>(4) The Appellate Tribunal may, upon application in writing, admit an appeal after the expiration of the period specified in clause (d) of subsection (2) if it is satisfied that the person preferring appeal was prevented by sufficient cause from filing the appeal within that period.</p> <p>(5) Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case:</p> <p>Provided that on filing of application in a particular case, the Appellate Tribunal may after affording an opportunity of being heard to the Commissioner having jurisdiction, for reasons to be recorded, stay the recovery of tax for ninety days:</p> <p>Provided further that the stay order shall cease to have effect, and the Commissioner shall be entitled to recover tax, if the taxpayer does not adhere to the hearing schedule for the appeal, as determined by the Appellate Tribunal in accordance with the rules made under sub-section (2) of section 130.</p> <p>Provided also that where an appeal is not decided within the statutory period by the Appellate Tribunal, the stay order under second proviso shall not cease to have effect till finalization of the appeal by the Appellate Tribunal.</p> | <p>however, SOE shall refer case, if aggrieved, before Alternate Dispute Resolution [ADR] in case the ADR committee fails to decide within prescribed time of sixty days such SOE may file appeal before ATIR.</p> <p>SOE means the Federal Government directly or indirectly has the right to appoint a majority of directors or decisions, exercisable by a person individually or through any person acting in concert, directly or indirectly, whether by virtue of Federal Government shareholding, management, right, shareholders agreement, voting agreement or otherwise; or</p> <p>In the case of an entity created by an Act of the Majlis-e-Shoora, if the FG has the power to appoint a majority of the persons who are directors of that entity or otherwise has the power to determine the outcome of decisions about the entity's management or financial and operating policies.</p> <p>The prescribed fee has been increased from five thousand [5,000] rupees to twenty thousand [20,000] rupees in the case of companies and from two thousand five hundred [2,500] rupees to five thousand [5,000] rupees in cases other than companies.</p> <p>In our opinion the amendment regarding enhancement of fee and penalty which are substantive in nature are open to interpretation with regard to retrospective applicability in respect of cases/appeals related</p> |
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| | <p><i>Provided further that where recovery of tax has been stayed under this section, such stay order shall cease to have effect on expiration of the said period of one hundred and eighty days following the date on which the stay order was made and the Commissioner shall proceed to recover the said tax:</i></p> <p><i>Provided further that in computing the aforesaid period of one hundred and eighty days, the period, if any, for which the recovery of tax was stayed by a High Court, shall be excluded.</i></p> | | <p>prior to tax year 2025 irrespective of date of filing of such cases/appeals.</p> <p>It is proposed that ATIR may only grant stay from recovery of tax after providing an opportunity of being heard to the Commissioner concerned. The stay, if granted, shall be for a period up to ninety [90] days and further such stay shall cease to have effect in case the taxpayer does not follow the hearing schedule.</p> <p>Furthermore, if the appeal is not decided within ninety [90] days, the stay remains in filed till finalization of such appeal.</p> |
| <p>132</p> | <p>132. Disposal of appeals by the Appellate Tribunal. –</p> <p><i>(1) The Appellate Tribunal may, before disposing of an appeal, call for such particulars as it may require in respect of the matters arising on the appeal or cause further enquiry to be made by the Commissioner.</i></p> <p><i>(2) The Appellate Tribunal shall afford an opportunity of being heard to the parties to the appeal and, in case of default by any of the party on the date of hearing, the Tribunal may proceed ex parte to decide the appeal on the basis of the available record.</i></p> <p><i>(3) Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (2), make an order to –</i></p> <p><i>(a) affirm, modify or annul the assessment order; or</i></p> | <p>132. Decision of appeals by the Appellate Tribunal –</p> <p><i>(1) The Appellate Tribunal shall decide the appeal within ninety days of its filing:</i></p> <p><i>Provided that appeals pending before the Appellate Tribunal on the date of commencement of the Tax Laws (Amendment) Act, 2024 (of 2024), shall be decided within one hundred and eighty days:</i></p> <p><i>Provided further that where an appeal is not decided within the aforesaid period, the Appellate Tribunal shall seek condonation from the Minister of Law and Justice and such condonation shall not extend beyond ninety days.</i></p> <p><i>(2) At the first hearing of appeal, the Appellate Tribunal shall-</i></p> <p><i>(a) bring to the notice of the taxpayer, the provisions relating to alternative dispute resolution under section 134A of the Ordinance; and</i></p> <p><i>(b) should the taxpayer decline the option of alternative dispute resolution and wish to</i></p> | <p>Through this amendment it is proposed that the prescribed period for the ATIR to decide the appeals shall be reduced from six [06] months to ninety [90] days from the date of filing. However, in cases of pending appeals prior to the commencement of this amendment, the prescribed period shall be 180 days.</p> <p>At the time of first hearing the Tribunal shall bring to the notice of taxpayer regarding ADR under Section 134A and in case of decline fix a date for hearing.</p> <p>No adjournment shall be granted except reasons for adjournment, to be recorded by ATIR; and mandatory cost/fine of at least fifty thousand [50,000] rupees shall be imposed on the party seeking adjournment</p> |

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| <p>(c) remand the case to the Commissioner or the Commissioner (Appeals) for making such enquiry or taking such action as the Tribunal may direct.</p> <p>(4) The Appellate Tribunal shall not increase the amount of any assessment [or penalty] or decrease the amount of any refund unless the taxpayer has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.</p> <p>(5) Where, as the result of an appeal, any change is made in the assessment of an association of persons or a new assessment of an association of persons is ordered to be made, the Appellate Tribunal may authorise the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit in sub-section (2) of section 122 shall not apply to the making of such amended assessment.</p> <p>(6) Where the appeal relates to a decision other than in respect of an assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and issue such consequential directions as the case may require.</p> <p>(7) The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.]</p> <p>(10) Save as provided in section 133, the decision of the Appellate Tribunal on an appeal shall be final.</p> | <p><i>continue with the appeal, fix date or dates for hearing and decision of the appeal in consultation with the taxpayer and Commissioner and in accordance with the rules.</i></p> <p><i>(3) The Appellate Tribunal shall ensure strict adherence to the aforesaid hearing schedule by the taxpayer and the Commissioner and shall hear and decide the appeal on the date or dates fixed, and no adjournment shall be granted except-</i></p> <p><i>(a) where there are compelling reasons for adjournment, to be recorded by the Appellate Tribunal; and</i></p> <p><i>(b) on mandatory payment of such cost as the Appellate Tribunal may deem fit, which shall not be less than fifty thousand rupees:</i></p> <p><i>(4) Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (3), make an order to -</i></p> <p><i>(a) affirm, modify or annul the assessment order;</i></p> <p><i>(b) remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct; or</i></p> <p><i>(c) make such order as the Appellate Tribunal may deem fit.</i></p> <p><i>(5) The Appellate Tribunal shall not increase the amount of any assessment or penalty or decrease the amount of any refund unless the taxpayer has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.</i></p> <p><i>(6) Where, as the result of an appeal, any change is made in the assessment of an association of persons or a new assessment of an association of persons is ordered to be made, the Appellate Tribunal may authorize the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit in sub-section (2) of section 122 shall not apply to the making of such amended assessment.</i></p> | <p>including the Commissioner (Department).</p> <p>In our opinion the amendment regarding enhancement of fee and penalty which are substantive in nature are open to interpretation with regard to retrospective applicability in respect of cases/appeals related prior to tax year 2025 irrespective of date of filling of such cases/appeals.</p> |
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| | | <p><i>(7) Where the appeal relates to a decision other than in respect of an assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and issue such consequential directions as the case may require.</i></p> <p><i>(8) The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.</i></p> <p><i>(9) Save as provided in section 133, the decision of the Appellate Tribunal on an appeal shall be final.</i></p> | |
| 133 | <p>133. Reference to High Court. –</p> <p><i>(1) Within ninety days of the communication of the order of the Appellate Tribunal under sub-section (7) of section 132, the aggrieved person or the Commissioner may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.</i></p> <p><i>(2) The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.</i></p> <p><i>(3) Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order referred to in sub-section (1), it may proceed to hear the case.</i></p> <p><i>(4) A reference to the High Court under this section shall be heard by a Bench of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply, so far as may be, notwithstanding anything</i></p> | <p>133. Reference to High Court.-</p> <p><i>(1) Within thirty days of the communication of the order of the Appellate Tribunal under sub-section (8) of section 132, the aggrieved person or the Commissioner may file a reference, in the prescribed form, along with a statement of the case, before the High Court, stating any question of law or a mixed question of law and fact arising out of such order.</i></p> <p><i>Provided that the applicant shall also file complete record of the Appellate Tribunal within fifteen days of preferring an application under this section.</i></p> <p><i>(2) The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.</i></p> <p><i>(3) Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of such order referred to in sub-section (1), it may proceed to hear the case.</i></p> <p><i>(4) A reference to the High Court under this section shall be heard by a Special Bench, constituted for hearing cases under this section, comprising of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply, so far as may be, notwithstanding anything contained in any other law for the time being in force.</i></p> <p><i>(5) The Special Bench shall decide a reference within six months from the date of its filing.</i></p> | <p>Through this proposed amendment the entire complexion of provision has taken paradigm shift namely:</p> <p>i) The prescribed time of filling o reference has been reduced from ninety days to thirty days from the date of communication of the order of Trib.</p> <p>ii) The time limit to decide a reference within six months has been fixed.</p> <p>iii) No recovery of tax demand shall be made within thirty days of the date of order of Trib.</p> <p>iv) As a result of order of Honorable High Court if a refund arises, the Commissioner, within thirty days from the date of such judgment, may file an application that he wants to prefer appeal before Honorable Supreme Court of Pakistan to postpone the refund until the disposal of appeal filed before Honorable Supreme Court.</p> |

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| <p>contained in any other law for the time being in force.</p> <p>(5) The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Tribunal's order shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.</p> <p>(6) Notwithstanding that a reference has been made to the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal:</p> <p>Provided that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court and the amount of tax found refundable, the High Court may, on application by the Commissioner within thirty days of the receipt of the judgment of the High Court that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.</p> <p>(7) Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court earlier.</p> | <p>(6) The High Court shall establish a case management system to ensure that sufficient number of Special Benches are constituted, so as to ensure that a reference filed under this section is decided within the stipulated six months.</p> <p>(7) The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Appellate Tribunal's order shall stand modified accordingly.</p> <p>(8) The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.</p> <p>(9) Notwithstanding that a reference has been filed before the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal:</p> <p>Provided that the tax recovery shall not be made by the Commissioner for thirty days from the date of communication of the order of the Appellate Tribunal:</p> <p>Provided further that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court and some amount of tax is found to be refundable, the High Court may, on application by the Commissioner within thirty days of the receipt of the judgment of the High Court that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.</p> <p>(10) On an application filed in a particular reference and after affording an opportunity of being heard to the Commissioner, the High Court may stay recovery of tax, subject to deposit with the assessing authority of not less than thirty percent of the tax determined by the Appellate Tribunal. Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court</p> | <p>v) On application of stay filed by the taxpayer the same shall be decided upon providing proper opportunity of being heard to the Commissioner, the Honorable High Court may grant stay from recovery of tax demand to the department subject to deposit of thirty percent of tax demand determined by the Trib. The stay shall remain effective for the period of six months following the day on which it was made unless the appeal is decided, or such order is withdrawn.</p> <p>vi) Reference shall be accompanied by a fee of Fifty Thousand Rupees.</p> <p>In our opinion the amendment regarding enhancement of fee and penalty which are substantive in nature are open to interpretation with regard to retrospective applicability in respect of cases/references related prior to tax year 2025 irrespective of date of filling of such cases/references.</p> |
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| | <p>(8) Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).</p> <p>(9) An application under sub-section (1) by a person other than the Commissioner shall be accompanied by a fee of one hundred rupees.</p> | <p><i>earlier.</i></p> <p>(11) Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).</p> <p>(12) An application under sub-section (1) shall be accompanied by a fee of fifty thousand rupees.</p> <p>(13) No application filed by the Commissioner under sub-section (1) shall be entertained unless it is accompanied by a written authorization by the relevant Chief Commissioner.</p> | |
| 134A | <p>134A. Alternative Dispute Resolution. -</p> <p>(1) Notwithstanding any other provision of this Ordinance, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to:</p> <p>(a) the liability of tax of one hundred million rupees or above against the aggrieved person or admissibility of refund, as the case may be;</p> <p>(b) the extent of waiver of default surcharge and penalty; or</p> <p>(c) any other specific relief required to resolve the dispute, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an appellate authority, except where criminal proceedings have been initiated.</p> <p>(2) The application for dispute resolution under sub-section (1) shall be accompanied by an initial proposition for resolution of the dispute, including an offer of tax payment.</p> <p>(3) The Board may, after examination of the application of an aggrieved person, appoint</p> | <p>134A. Alternative Dispute Resolution. -</p> <p>(1) Notwithstanding any other provision of this Ordinance, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to:</p> <p>(a) the liability of tax of <i>fifty million rupees</i> or above against the aggrieved person or admissibility of refund, as the case may be;</p> <p>(b) the extent of waiver of default surcharge and penalty; or</p> <p>(c) any other specific relief required to resolve the dispute, <i>may apply, except where criminal proceedings have been initiated, to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:</i></p> <p><i>Provided that where the aggrieved person is a State-Owned Enterprise (SOE), the limit of tax liability of fifty million rupees or above mentioned in clause (a) of sub-section (1) shall not apply and it shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section:</i></p> <p><i>Provided further that no suit, prosecution, or other legal proceedings shall lie against the SOE or the ADRC in relation to the dispute resolved under this section.</i></p> <p><i>Explanation.- State-Owned Enterprise shall have the same meaning as assigned thereto in the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023).</i></p> | <p>Through this amendment it is proposed Through this amendment the mechanism of ADR is proposed to be altered where the threshold for taxpayers other than SOE is proposed at fifty million [50 million] or above while all cases pertaining to SOEs shall be referred to the Board for constitution of ADR.</p> |

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| <p><i>a committee, within fifteen days of receipt of such application in the Board, comprising:</i></p> <p><i>(i) a retired judge not below the rank of a judge of a High Court, who shall also be the Chairperson of the Committee, to be nominated by the Board from a panel notified by the Law and Justice Division for such purpose;</i></p> <p><i>(ii) the Chief Commissioner Inland Revenue having jurisdiction over the case; and</i></p> <p><i>(iii) a person to be nominated by the taxpayer from a panel notified by the Board comprising:</i></p> <p><i>(a) chartered accountants, cost and management accountants and advocates having a minimum of ten years' experience in the field of taxation;</i></p> <p><i>(b) officers of the Inland Revenue Service who stood retired in BS 21 or above; or</i></p> <p><i>(c) reputable businessmen as nominated by the Chambers of Commerce and Industry:</i></p> <p><i>Provided that the taxpayer shall not nominate a chartered accountant or an advocate if the said chartered accountant or the advocate is or has been an auditor or an authorized representative of the taxpayer.</i></p> <p><i>(4) The Board shall communicate the order of appointment of Committee to the aggrieved person, court of law or the appellate authority where the dispute is pending and to the concerned Commissioner.</i></p> <p><i>(5) The Committee appointed under sub-section (3) shall</i></p> | <p><i>(2) The application for dispute resolution under sub-section (1) shall be accompanied by-</i></p> <p><i>(a) an initial proposition for resolution of the dispute, including an offer of tax payment; and</i></p> <p><i>(b) an undertaking that the applicant shall accept the decision of the Committee which shall be binding on him in all respects and shall on receipt of the decision immediately withdraw any and all pending litigation or cases of any kind in respect of the dispute, mentioning details thereof:</i></p> <p><i>Provided that if the applicant is an SOE, it shall withdraw any and all such pending litigation and cases immediately and mention the details thereof in the undertaking:</i></p> <p><i>Provided further that the SOE may file an appeal to the Appellate Tribunal or the High Court or the Supreme Court, as the case may be, where subsection (11) is applicable.</i></p> <p><i>(13) On receipt of the order of dissolution, the court of law or the Appellate Tribunal shall decide the appeal within ninety [90] days of the communication of the said order.</i></p> | |
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examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute by majority, within forty-five days of its appointment extendable by another fifteen days for the reasons to be recorded in writing.

(6) The decision by the Committee under sub-section (5) shall not be cited or taken as a precedent in any other case or in the same case for a different tax year.

(7) The recovery of tax payable by a taxpayer in connection with any dispute for which a Committee has been appointed under sub-section (3) shall be deemed to have been stayed on the constitution of Committee till the final decision or dissolution of the Committee, whichever is earlier.

(8) The decision of the Committee under sub-section (5) shall be binding on the Commissioner when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before the court of law or any appellate authority in respect of dispute as mentioned in sub-section (1) and has communicated the order of withdrawal to the Commissioner:

Provided that if the order of withdrawal is not communicated to the Commissioner within sixty days of the service of decision of the Committee upon the aggrieved

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| <p><i>person, the decision of the Committee shall not be binding on the Commissioner.</i></p> <p><i>(9) Subject to sub-section (10), the Commissioner shall also withdraw the appeal, if any, pending before any court of law or an appellate authority in respect of dispute as mentioned in sub-section (1) within thirty days of the communication of the order of withdrawal by the aggrieved person to the Commissioner.</i></p> <p><i>(10) The aggrieved person shall make the payment of income tax and other taxes and within such time as decided by the Committee under sub-section (5) and all decisions and orders made or passed shall stand modified to that extent.</i></p> <p><i>(11) If the Committee fails to decide within the period of sixty days under sub-section (5), the Board shall dissolve the Committee by an order in writing and the matter shall be decided by the court of law or the appellate authority where the dispute is pending under litigation.</i></p> <p><i>(12) The Board shall communicate the order of dissolution to the aggrieved person, court of law or the appellate authority and to the Commissioner.</i></p> <p><i>(13) On receipt of the order of dissolution, the court of law or the appellate authority shall decide the appeal within six months of the communication of the said order.</i></p> <p><i>(14) The Board may prescribe the amount to be paid as</i></p> | | |
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| | <p><i>remuneration for the services of the members of the Committee, other than the member appointed under clause (ii) of sub-section (3).</i></p> <p><i>(15) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.</i></p> | | |
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Disclaimer

We are under no obligation to update our comments for events and circumstances occurring after the date of this document. The comments in this document are a matter of interpretation of law and are based on our understanding of tax laws and our experiences. Accordingly, it cannot be said with certainty that the comments provided in this document will be accepted by the tax authorities. Furthermore, in no event will the Firm, its related partnerships or corporations, or partners, agents or employees thereof be liable to the readers or anyone else for any decision made or action taken in reliance on the information herein or for any consequential, special or similar damages, whether financial or otherwise. The readers are requested to seek specific opinion on issues emanating from the subject SRO/Notification.