

Filing of revised return, FBR asked to decide taxpayer's plea before expiry deadline

ISLAMABAD: On a writ petition filed by a taxpayer, the Lahore High Court has directed the Tax Department to decide the application of the taxpayer before the expiry of deadline of January 31, 2019 for filing of revised return under the section 214E for closure of audit.

When contacted, Shahid Jami, tax consultant, explained the background of the case. The return of total income filed by the petitioner company for the Tax Year 2016 was late and accordingly, audit proceedings under section 214D were initiated. These audit proceedings were pending when through Finance Supplementary (Amendment) Act, 2018 section 214E was inserted providing 25percent further tax over and above the tax chargeable as per return of total income filed for closure of audit. Whereas, in the case of petitioner company, the tax chargeable as per original return was Rs50,326,584; however tax payment/deductions at source were of Rs94,838,673 and accordingly the refundable amount of income tax was Rs44,512,089. The taxpayer filed application for revision of return by stating that twenty-five percent additional amount of tax be adjusted out of refundable amount. However, contrary to the provision of adjustment of tax, the in-built calculation on the e-portal does not allow said adjustment rather keeps the refund amount intact and requires separate payment of twenty-five percent tax. The petitioner company filed another application with the Commissioner pointing out the anomaly in the e-portal with the request to amend the software as per legal provision.

However, there was no response and last date of filing of revised return was approaching and therefore the petitioner company filed a writ petition.

In the petition, it was explained that as per section 168(1)(b), the amount of tax collected or deducted shall be treated as tax paid by the person from whom the tax was collected or deducted. As per section 168(2), the person shall be allowed credit for the tax in computing the tax due by the person on the taxable income of the person for the tax year in which tax was collected or deducted. Whereas, as per section 168(4), a tax credit allowed under this section shall be applied in accordance with section 4(3). As per section 168(5), a tax credit allowed under this section for the tax year that is not able to be credited under section 4(3) for the year shall be refunded to the taxpayer in accordance with section 170. Whereas, as per section 170(3) where the Commissioner is satisfied that the tax has been overpaid, the Commissioner shall apply the excess in reduction of any other tax due, from the taxpayer under this Ordinance.

The LHC has disposed of the writ petition with the direction to the department to decide the application of the petitioner regarding anomaly in the software, well within the deadline of filing of revised returns for closure of audit. Jami pointed out that this issue is involved in hundreds of cases and FBR has deliberately not provided the adjustment in the revised return which is otherwise available for the original return and this is purely a revenue driven approach contrary to the expressed provisions of section 170(3) regarding adjustment of refund towards any tax due under the Ordinance. He urged that the FBR should amend the software at the earliest and also extend the last date of filing of revised returns so that the taxpayers across the country could benefit from the legislative intent of closure of audit.

RECORDER REPORT