

Owner has legal right to challenge FBR's order: lawyer

The owner of Benami property would have the legal right to challenge the order of the Federal Board of Revenue's (FBR) Benami Zones at the level of Adjudication authorities, Federal Appellate Tribunal, High Courts and the Supreme Court of Pakistan.

A tax lawyer told Business Recorder that confiscation of Benami properties by the government is a very lengthy process under the law and it may take years to complete the proceedings of the Benami cases. The entire process covers mainly three stages that would be handled by three different departments/authorities.

According to the official, the FBR will act as a prosecution agency. At the first stage, Inland Revenue Officers of the FBR posted in the Benami Zones would issue notice to the owner of Benami property for provisional attachment of property for a period of 90 days; the attachment can be revoked or stayed by the Inland Revenue Officer. The Commissioner Benami Zones can revoke their orders of provisional attachment of properties or issue an order of continuing provisional attachment.

After provisional attachment of property, the Benami Zones would refer the matter to the adjudication authorities within a period of 60 days.

The second part of the law would be dealt with by the adjudicating authority established for adjudication of Benami properties, which is not under the FBR's administrative control or jurisdiction. Jamil Ahmed, a retired Pakistan Administrative Officer has been appointed as Chairperson of the Adjudicating Authority. Muhammad Tanvir Akhtar, a retired Inland Revenue Officer and Khaqan Murtaza, an officer of Pakistan Administrative Officer are appointed as members Adjudicating Authority.

The adjudicating authority will issue a notice to the parties within a period of 30 days of receiving reference from the Benami Zones. The aggrieved person can file his comments within a period of 30 days. After providing an opportunity to the person whose Benami property is attached, the adjudicating authority can issue order of confiscation of the property.

The third stage of the law would be dealt with by the Federal Appellate Tribunal. Any aggrieved person or officer including the initiating officer aggrieved by an order of the adjudication authorities may file an appeal with the Federal Appellate Tribunal (FAT) against the order of the adjudication authorities pertaining to the Benami accounts and assets.

However, Law Division has yet to notify the constitution of the Federal Appellate Tribunal. Without constitution of the Federal Appellate Tribunal (FAT), the legal process to deal with the Benami properties remains incomplete, he explained.

The FAT would constitute tribunal benches to take up the appeals within a period of 45 days. The tribunal would be bound to decide the appeal in a period of one year from the date of filing of appeal.

Any person aggrieved of the decision of the Federal Appellate Tribunal may file an appeal with the High Court within a period of 60 days.

The High Court would decide the cases and the federal government can also constitute special courts after consultation with the Chief Justice of High Courts for trial of Benami cases, the tax lawyer added.