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KCCI asks government to address ST, IT issues before approving budget

President of Karachi Chamber of Commerce and Industry (KCCI) Junaid Esmail Makda has called for correction of various Sales Tax and Income Tax anomalies found in the federal financial budget 2019-20. He appealed to Prime Minister Imran Khan, State Minister for Revenue Hammad Azhar and FBR chairman Shabbar Zaidi to rectify all these anomalies on top priority prior to seeking approval of the budget from the parliament.

Makda urged Prime Minister, all ministers and advisers that they must hold a consultative session with Karachi Chamber for the rectification of the abovementioned budget anomalies.

However, he also asked them to do so prior to seeking budget approval from the parliament.

"Government must deal with all these anomalies; otherwise, the industry will not be able to keep its wheels spinning and that will lead to raising unemployment and poverty all over the country, besides creating a disastrous situation and a tsunami for the already ailing economy," he alerted.

The Karachi Chamber has identified following anomalies in the Federal Budget: Sales Tax related issues

1. Definition of Cottage industry is changed - Section 2 (5AB)

Currently cottage industry means manufacturer with annual turnover of less than Rs 10 million or whose annual utility bills do not exceed Rs 0.8 million. But now cottage industry would be a manufacturing concern: (a) Which does not have an industrial gas or electricity connection, (b) is located in a residential area; (c) does not have a total labour force of more than ten workers; and (d) annual turnover from all supplies does not exceed Rs 2 million.

2. Section 3 (7) "Scope of tax" - Sales Tax withholding: Currently sales tax withholding is applicable through SRO-660/2007 and as per its Rule 5 various exclusions are provided for sales tax withholding, including for goods of 3rd Schedule and for companies being active taxpayers.

Now separate 11th Schedule is proposed to be included in Sales Tax Act, 1990 and such exclusions are to be included in such schedule or rules to be prescribed.

Further, currently companies are required to withhold 1 percent of value of purchase from un-registered suppliers and that become the part of cost for buyer/companies. Now this rate is proposed to be enhanced to 5pc and that we increase cost of such companies purchasing from un-registered suppliers.

3. Section 7A "Levy and collection of tax on specified goods on value addition"

Currently, 3pc value added tax (VAT) is applicable through Rule 58A to E under SRO-480/2007 and manufacturer importing goods for in house consumption is not charged with such 3pc VAT at import stage. Now, separate 12th Schedule is proposed to be included in ST Act, 1990 and only those manufacturers that would import raw materials and intermediary goods for industrial process which are subject to customs duty at 16pc or 20pc ad valorem are excluded. This means that manufacturer importing goods which are subject to customs duty other than 16pc or 20pc would be required to pay 3pc VAT.

4. Sale to un-registered person: Section-8(m) "Tax Credit not allowed"

Now, sales paid on input goods attributable to supplies made to unregistered person, on pro-rata basis, for which sale invoices do not bear the CNIC number of the buyer.

Section-23(b) Tax Invoices: CNIC of unregistered buyer shall also be mentioned on ST Invoice, otherwise, input tax paid for such supply would not be allowed.

The 3rd schedule products shall be excluded from the requirement of mentioning CNIC of un-registered buyer, otherwise, major input of manufacturer would be disallowed.

5. Section-25 (2) "Access to record/Audit"

In last Finance Act, 2018 a proviso was to Section-25 (2) to limit the audit once in 3 years and that proviso is now proposed to be excluded that would mean that now audit of Sales Tax records can be conducted each year by the concerned commissioner.

6. Section-33A "Proceeding against person"

The FBR shall prescribe rules for initiating criminal proceedings against any officer of FBR who wilfully and deliberately commits or omits an act which results in personal benefits and undue advantage to officer or the person or taxpayer or both. Further, the FBR shall simultaneously intimate the relevant government agency to initiate criminal proceedings against the taxpayer.

This provision is also included in Section-19A to Federal Excise Act, 2005, as Section- 216A to Income Tax Ordinance, 2001 and as Section-156A to Customs Act, 1969.

A. Income Tax: 1. Section - 21 "Deduction not allowed"

Section- 21 deals with heads of expenses that are not allowed to be deducted from taxable income. It is proposed to add new clause (ca) to disallow the commission paid on 3rd Schedule products over 0.2pc of gross value of supplies if the recipient of such commission is not registered in Sales Tax and not appear on Active Taxpayers List for Income tax purpose.

"(ca) any amount of Commission paid or payable in respect of supply of products listed in the third schedule of the Sales Tax Act, 1990, where the amount of commission paid exceeds 0.2pc of gross amount of supplies thereof unless the person to whom commission is paid or payable, as the case may be, is registered under the Sales Tax Act, 1990 and is appearing in the active taxpayer list under this Ordinance.

2. Section-65B "Tax Credit for investment"

Currently, tax credit @ 10pc is allowed on amount of investment in plant and machinery made by industrial undertaking till the tax year 2021. It is proposed that for tax year 2019, it shall be 5pc and this credit will not be available after tax year 2019.

3. Section 108AB new section added "Transactions under dealership arrangements"

A person supplying 3rd Schedule goods or goods prescribed by FBR, under a dealership arrangement to dealers who is not registered in Sales Tax and are not appearing in the Active Taxpayers List for income tax, an amount equal to 75pc of the dealer's margin (which is 10pc of manufacturer's sale price) shall be added to the income of supplier/manufacturer. Hence, amount equal to 7.5pc of manufacturer sale price would be disallowed as expense for manufacturer.

4. Section-120B "Restriction of proceedings"

It is proposed that no proceedings shall be undertaken under the Ordinance against the person who declares undisclosed assets, undisclosed expenditures and undisclosed sales under the Assets Declaration Act, 2019.

Further, the particulars of the person making declaration or any information received in respect of such/any declaration made under the said Act shall be kept confidential except for the requirement of disclosures of information mentioned in clauses (a) and (g) of sub-section (3) of section 216 of the Ordinance.

Section-216 (a and g) deals with where information/documents/ return, etc, can be disclosed to person acting under the Income Tax Ordinance (where it is necessary to disclose to him for Ordinance) and officer under the Sales Tax & Federal Excise Act (for enabling him to exercise his powers).

5. Section-175 "Power to enter and search premises"

It is proposed to give power to commissioner to raid any premises where there is reliable information of undeclared gold, bearer security or foreign currency and confiscate the same in order to enforce any provision of this Ordinance.

6. Section-216 "Disclosure of Information by a public servant"

It is proposed to give power to FBR to publish names (in the print and electronic media) of offshore evaders who have evaded offshore tax equal to or exceeding Rs 2.5 million and names of offshore tax enablers who have enabled offshore tax evasion.

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