BUSINESS RECORDER
Founded by M.A. Zuberi

18th June, 2019

”Trade-based money laundering”: Harsh penalties proposed, says FBR chief

Federal Board of Revenue (FBR) Chairman Shabbar Zaidi Monday said the FBR has proposed harsh punishment, including imprisonment, for "trade-based money laundering" through misdeclaration of value for illegal transfer of funds abroad and also introduced the concept of provisional assessment of export goods. Explaining the rationale behind introducing new section 32C in Customs Act through Finance Bill 2019, Shabbar Zaidi informed the Senate Standing Committee on Finance that the "trade-based money laundering" is a very serious crime. Once it has been established, it comes within the ambit of money laundering.

The Senate Standing Committee on Finance met here in the chair of Senator Farooq H Naek. In Pakistan, it has been learnt that some exports are used to commit "trade-based money laundering" which is a very serious crime. Exports have been used to transfer illegal money aboard. This is a new kind of offence witnessed in Pakistan and a mechanism would be introduced to ensure proper implementation on new law, Shabbar Zaidi said. When specifically asked whether this crime is money laundering, Shabbar Zaidi said, "It is money laundering."

He said that misdeclaration of value for illegal transfer of funds abroad has been highly abused in Pakistan. If the crime has been established, the proposed punishment is up to 10 years, besides penalty and confiscation of goods.

Shabbar Zaidi stated that the said power exists in customs laws of a number of countries. Under the FATF laws, the said provision is available under the anti-money laundering clauses.

The committee members strongly contested that the punishment of 10 years is very harsh punishment for importers/ exporters for misdeclaration of value, which may be sometimes unintentional.

The FBR chairman said that misdeclaration of value for illegal transfer of funds abroad is a very clear case of money laundering. "However, we would ensure that the said provision should not be misused or abused. The question arises if a person has been caught while committing this crime, what the penalty should be.

He further explained if a person has committed the crime of "trade-based money laundering," a separate complaint would be filed against the accused under Anti-Money Laundering Act. The concerned customs judge would conduct two things simultaneously; he would make one case against the concerned person under customs laws and the second would be made under the Anti-Money Laundering Act.

FBR Member Customs Policy Muhammad Javed Ghani read: "If any person commits an offence under section 32C of the Customs Act, such person shall be liable to penalty not exceeding two hundred thousand rupees or three times the value of goods in respect of which such offence is committed, whichever is greater; and such goods shall also be liable to confiscation; and upon conviction by a special judge he shall further be liable to imprisonment for a term not exceeding ten years and to a fine which may extend up to one million rupees and shall also be liable to forfeiture of property involved in money laundering or property of corresponding value in accordance with the provisions of the Anti-Money Laundering Act, 2010, the FBR Member added.

The chairman of the committee observed that the penalty is too high and very harsh. Responding to this, the FBR chairman said, "I know it is harsh, but we have to bring penalty in line with the provisions available under the AML laws. We cannot have separate penalties for a similar crime in both the laws."

Shabbar Zaidi said that the "trade-based money laundering" is already covered under the AML laws. In AML law, it is a crime and covered under the predicate offences. Moreover, under the AML law, any fraud of customs is a predicate offence.

FBR Member Customs Policy said that the Finance Bill 2019 has proposed to withdraw powers of the Collectors of Customs to issue valuation rulings and now only Directorate of Customs Valuation including its Directors can issue valuation rulings. An amendment has been proposed in the section 25A of the Customs Act 1969.

FBR Member Customs Policy said that the measure has been taken to ensure uniformity in applicability of customs values across the county.

FBR Member Customs Policy said that the misdeclaration penalties have been increased under the Finance Bill 2019. The section 156 has been proposed to be amended under the Customs Act 1969.

RECORDER REPORT