

**Import of raw materials, Commissioners IR exercising discretionary powers**

ISLAMABAD: Commissioners Inland Revenue in the field formations of the Federal Board of Revenue (FBR) are exercising discretionary powers and their individual understanding for issuance of exemption certificates on the import of raw materials and other inputs consumed by manufacturers etc.

Tax experts told Business Recorder that though under section 153 of Income Tax Ordinance 2001 the manufactures are entitled to the issuance of exemption certificates in respect of their supplies to address the issue of excessive tax deduction at source yet due to lack of standard operating procedures there is no uniformity across the country. Commissioners Inland Revenue, who is authorized to issue an exemption certificate on the application of the taxpayers, are using their individual understanding and discretion which is invariably to the disadvantage of the taxpayers.

In this connection, All Pakistan Solvent Extraction Association (APSEA) has made a representation to the Board for framing of Rules or issuance of Circular and its delegation comprising on its chairman Dr Muhammad Arshad and tax advisor Shahid Jami held a follow-up meeting with Member Tax Policy due to the urgency of the issue of the entire industry which relies on the imported raw material.

It has been explained by the APSEA that since clause (72B) of Part IV of Second Schedule has been deleted through Finance Act 2020 so from first July on every import consignment of edible seeds advance income tax at the rate of two percent is being collected by the Customs as required under section 148 read with Twelfth Schedule. It adds that with this rate of collection of income tax the total tax collection on import of raw material is more than advance tax requirement under section 147 and the projected requirement of corporate tax under First Schedule. However further deduction at source under section 153 on manufactured supplies is being made under sub-section (4). Commissioners are authorized to issue exemption certificate yet in the absence of any structured criteria the practice across the country varies from zone to zone.

Jami explained that on this important aspect of procedure neither there is any Rule framed by the FBR in the exercise of its powers under section 237 of the Ordinance nor any Circular issued by the FBR under section 214. He pointed out that under Rule 40 of Income Tax Rules 2002 an application under section 159 shall be made in the Form specified in Part-VII of the First Schedule. Whereas section 159 covers only those applications for exemption certificates under section 153 in respect of manufactured supplies where the income of supplier is either exempt from tax under the Ordinance or is subject to a hundred percent tax credit under section 100C whereas for other situations covered under section 153(4) there is no Rule under the Income Tax Rules 2002 specifying the application form and criteria for issuance of the same.

Jami explained that section 214 of the Ordinance provides that all the income tax authorities shall follow the orders, instructions, and directions issued by the Board and FBR circulars and directions or clarifications come under this mandate. However, on issuance of exemption certificates under section 153(4) neither there is any circular prescribing application nor standard office procedure also structuring the discretion of the Commissioners.

He pointed out the result of such lapse that the practice of department varies from zone to zone. For the example, at Multan, no exemption certificates are being issued under section 153(4) after amendment made through Finance Act 2020 whereas at Large Taxpayers Unit, Lahore interim exemption certificates for one or two months have been issued after securing advance tax over and above the tax being collected on imports of raw material which will result once again in the accumulation of refunds backlog of which is yet to be cleared even with support from Prime Minister Relief Package. Renewal of such interim certificate is also creating a problem as IRIS provided application and certificate for six months and the system is not allowing filing of second application before six months.