

**Ex-chairman's major facilitative measures, Businessmen, experts surprised at FBR's new report**

ISLAMABAD: Businessmen, tax lawyers/experts, industrialists and traders are surprised over the Federal Board of Revenue (FBR)'s new report, which blamed a former chairman's major facilitative measures responsible for Rs13 billion revenue losses due to barring tax officials from freezing of bank accounts and conducting raids on business premises.

Experts from industry and trade told Business Recorder that for the first time in the history of Pakistan, the then chairman FBR fully understood the misuse of the powers of the tax officials for attachment of bank accounts.

To check massive misuse of these powers, former chairman FBR issued an order in which all the commissioners land revenue were barred from freezing bank accounts, which was a long pending demand of the business community.

Traders were unanimous that the restriction on the said enforcement measures had effectively controlled the harassment by the tax officials in the field formations.

Businessmen and industrialists were surprised that how the FBR itself can declare facilitative measures as negative measures having revenue implications.

They contested the FBR's report saying, "This sharp decline can be attributed to administrative restraint on collection through active enforcement measures which resulted in decline in collection from arrear and current demand. This underlines the need to boost departmental efforts in audit and subsequent recovery."

A tax lawyer, Waheed Shahzad Butt told Business Recorder that the recovery proceeding through bank account attachments on the basis of demand notice issued under the provisions of fiscal statues including Income Tax Ordinance, 2001 were contrary to the principles of fair play and natural justice as department (IRS functionaries) were not competent to enforce recovery unless the order creating such demand had undergone the scrutiny of at least one independent judicial forum.

Tax lawyer highly appreciated that the relief measures adopted by the former chairman FBR Zaidi, were in accordance with the rights guaranteed by the Constitution of Pakistan to all citizens.

Taking support from the verdicts of bindings nature it is settled law that unless the matter is decided by at least one independent forum out the hierarchy of revenue department (Inland Revenue Service), the recovery cannot be made.

Reliance is placed on Z.N. Exports (Pvt) Ltd. Vs Collector Sales Tax etc. (2003 PTD 1746), M/s Pak Saudi Fertilizers Ltd. Vs Federation of Pakistan and others (2002 PTD 679) and M/s Magna Processing Industries (Pvt) Limited Vs Federation of Pakistan and others (2014 PTD 841).

In case of raids by the Revenue Division employees, no doubt it was clearly in violation of a right to fair trial and due process guaranteed under Article 10A of the Constitution of Pakistan.

The Article 10A states that a person has a right of fair trial and due process for determination of his civil rights and obligations including taxation rights and obligations. Specific check and balance barrier put by the former chairman, no doubt was fair enough to treat the taxpayer citizens of Pakistan, Waheed said.

Taxing laws in particular must be enforced in such a manner that people of Pakistan themselves voluntarily pay the taxes encouragingly and honestly. Such a motivation can only be infused among the people by eliminating the fear of being exploited by the machinery and income tax (FBR) authorities.