

TAXPAK

Newsletter by

Tola Associates



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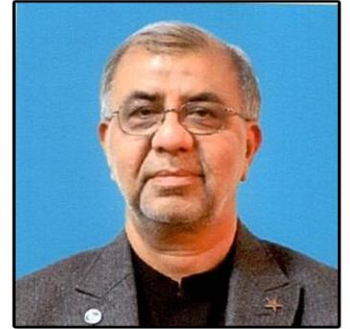
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Topic of the Month: Recovery of Taxes not Collected or Deducted

Disclaimer

Chairman's Message

Assalam-o-alaikum everyone! Hope this monthly issue of TaxPak finds you in good spirits and immaculate health! We welcome you to another edition of TaxPak, our monthly publication the purpose of which is to provide a monthly update on the ongoing tax related developments in Pakistan. Alhamdulillah, so far, we have been successful in our mission to educate about, and keep the public-at-large updated of these developments on a monthly basis.



Moreover, we would like to apprise the readers of what information you can expect in this document. This newsletter contains an elaboration of important Notifications and Circulars issued by the Federal Board of Revenue ("FBR") and its provincial counterparts. Moreover, Notifications from the Corporate regulatory body i.e., SECP are also discussed. As our main aim is to keep the masses updated regarding the developments in the Pakistani tax law, we usually discuss a (relatively) recent judgement passed by the courts of law. This edition of TaxPak consists a discussion of one judgment that pertains to the recovery of advance tax u/s 147 of the Income Tax Ordinance 2001.

Towards the end of the newsletter, we have discussed our Topic of the month titled Recovery of Taxes not Collected or Deducted. The said topic provides a brief overview of the legal framework of Recovery of taxes not collected or deducted under Sections 161 and 162 of the Income Tax Ordinance, 2001 and highlighting issues faced that may occur to the taxpayers.

All our readers are requested to visit our website www.tolaassociates.com or download our mobile application in order to access previously published editions of TaxPak along with other publications, and to stay updated of future notifications. Lastly, we request our readers to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

Warm Regards,
Ashfaq Yousuf Tola - FCA,
Chairman
Tola Associates.

FEDERAL BOARD OF REVENUE (“FBR”) NOTIFICATIONS

A. INCOME TAX NOTIFICATIONS

1) Update in Valuation of Immoveable Property of Gwadar

The FBR, vide S.R.O. 13(i)/2025, dated 13th January, 2025 was pleased to direct that the following amendments shall be made in its Notification No. 1725 (i)/2024, dated the 29th October, 2024 which pertains to Revision of Value of Immovable Properties of Gwadar.

1) For entry no. 28, which is for the value of Commercial Plots in Phase- III Marine Drive in New Housing Scheme in Gwadar. The valuation of rates per 1000 square yards shall be increased from Rs 2,000,000/- to Rs. 20,000,000/-

2) For entry no. 34, which is for the value of Commercial Plots in Phase- III Marine Drive in New Housing Scheme in Gwadar. The valuation of rates per 222 square yards shall be increased from Rs 500,000/- to Rs. 5,000,000/-

For further reading: [FBR](#)

B. SALES TAX NOTIFICATIONS

1) ANNEX HI REQUIRED TO BE FILED BY REGISTERED COMMERCIAL IMPORTERS, DISTRIBUTERS, WHOLESALERS

The FBR, vide S.R.O. No.55(i)/2025 dated 24th January, 2025 was pleased to direct that the following further amendments shall be made in Rule 14 of the Sales Tax Rules, 2006 which pertains to filing of return. In subsection (1), the proviso shall be replaced and the following provisos shall be added.

Quote

Provided that all registered manufacturers making supply of taxable goods shall furnish, in Annex-J of the monthly return, details of goods manufactured or produced and goods supplied:

Provided further that all registered commercial importers, distributors, wholesalers making supply of taxable goods shall furnish in Annex-HI of the monthly return, details of such goods purchased or imported and goods supplied.

Unquote

In light of the above, in form STR-7 after Annex-H, the following new annexure names as Annex-HI shall be inserted:

ANNEX-HI (STOCK)

Item Details				Opening Balance		Goods Purchased / Imported during the month	
Sr.No	HS Code	Unit of Measure	Sales Tax Ratw	Value of Goods (a)	Quantity of Goods	Value of Goods (c)	Quantity of Goods
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1							
2							
3							
4							

GOODS SUPPLIED DURING THE MONTH

Domestic Taxable Supplies		Exempt goods		Domestic Zero-Rated supplies / Exports		Closing Balance	
Value of Goods (e)	Quantity of Goods (f)	Value of Goods (g)	Quantity of Goods (h)	Value of Goods (i)	Quantity of Goods (j)	Value of Goods (k)	Quantity of Goods (l)
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
						Calculated value [(a) + (c)] - [(e) + (g) + (i)]	Calculated value [(b) + (d)] - [(f) + (h) + (j)]

ANNEX – J (PRODUCTION)

PRODUCTION DATA										Annex – J			
Opening Stock				Quantity Produced				Supply		Closing Balance			
Sr.No	HS Code	Description	Uom	Quantity in Opening Stock	Value of opening stock	Quantity Produced during the month	Value of Quantity Produced During the Month	Quantity Supplied Locally	Value of Supplies (Local)	Quantity Exported	Value of Supplies (Export)	Quantity of Closing Stock	Value of Closing Stock
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1													
2													
3													

For further insight: [FBR](#)

2) Amendments in Sales Tax Rules, 2006 – Chapter XIV – Procedure for Licensing, Issuance of Electronic Sales Tax Invoices and Integration of Registered Persons

The FBR, vide S.R.O. No.69(i)/2025 dated 29th January, 2025 was pleased to direct that the following further amendments shall be made in Chapter XIV of the Sales Tax Rules, 2006 which pertains to the

In place of the existing Chapter XIV, the following provisions shall be substitutes which are summarized below:

Rule 150Q – Application

- Applies to all registered persons for the integration of electronic invoicing hardware/software.
- FBR will notify specific businesses through the official Gazette.
- Businesses already integrated with FBR’s Point of Sale (POS) system will be considered compliant.

Rule 150R – Obligations and Requirements

Integrated persons must:

- Register and integrate their POS systems with FBR.
- Provide details of outlets, POS systems, and invoicing machines to FBR.
- Issue invoices only through integrated systems.

The system must:

- Generate, encrypt, and store invoice data securely.

Issue invoices with:

- Unique FBR invoice number (XXXXXX-DDMMYYHHMMSS-0001).
- QR code for verification.
- Digital signature.
- Transmit invoices to FBR in real-time.
- Automated tax return filing (Annexure-C of Sales Tax Return) based on electronic invoices.

Rule 150S – Issuance of Electronic Invoice and Record

- The integrated person must issue real-time verifiable electronic sales tax invoices for all taxable supplies and services.
- Invoices must be retained electronically for six years as per Section 24 of the Sales Tax Act.
- Debit and credit notes must also be issued electronically and stored for six years.
- For online sales, including marketplaces, invoices must be generated automatically and maintained for six years.

Rule 150T – Conditions for Electronic Storage

Businesses must:

- Retain electronic invoices for six years.
- Ensure invoices can be retrieved during audits.

Rule 150U – Audit

Inland Revenue Officers can:

- Inspect and audit businesses for compliance.
- Access premises and review electronic invoices.
- Conduct technical audits as required by FBR.

Rule 150V – Extension in Due Date of Integration

- Commissioner Inland Revenue may grant up to 60 days extension for integration.
- Commissioner Inland Revenue may grant up to 60 days extension for integration.

Rule 150W – Provisions of Electronic Transactions

- All electronic records and transactions under this rule are legally recognized.

Rule 150X – Consequences of Non-Compliance or Contravention

Businesses that:

- Tamper with electronic invoices.
- Avoid real-time reporting.
- Fail to integrate their systems.
- Will face penalties under Section 33 of the Sales Tax Act, 1990.

Rule 150XA – Responsibilities of the Integrated Persons

Businesses must:

- Ensure smooth operation of electronic invoicing systems.
- Report any system failure to FBR within 24 hours.

Rule 150XB – Provision of Verification Facility by the Board

- FBR will provide an online verification system for buyers to confirm if invoices are properly reported.

Rule 150XC – Internet Interruption

- If electronic invoicing is disrupted due to power/internet failure, invoices must be:
 - Marked as “offline”.
 - Uploaded within 24 hours of restoration.

Rule 150XD – Functions of the Officer of Inland Revenue

Officers will:

- Monitor businesses for compliance.
- Verify invoice authenticity.
- Recover unpaid taxes on unreported sales.

Rule 150XE – Licensing

- Only licensed service providers can install and maintain electronic invoicing systems.
- Unauthorized providers cannot operate.

Rule 150XF – PRAL to Act as a Licensed Integrator

- Pakistan Revenue Automation (PRAL) is designated as a free-of-cost licensed integrator.

Rule 150XG – Functions of the Licensing Committee

- FBR will form a Licensing Committee to evaluate and approve integrators.

Rule 150XH – Application for Grant of License

Companies must submit:

- Company profile & technical expertise.
- Audited financials for three years.
- List of previous projects & clientele.

Rule 150XI – Procedure for Grant of License

The Licensing Committee will:

- Evaluate applications within seven days.
- Approve or reject applications within 15 days.

Rule 150XJ – Right Granted to the Licensee

Licensed providers can:

- Install and maintain POS integration software.
- Operate for five years before renewal.

Rule 150XK – Renewal of License

- Renewal applications must be submitted three months before expiry.

Rule 150XL – Technical Support

Providers must:

- Maintain and troubleshoot software/hardware issues.
- Ensure real-time transmission of invoices to FBR.

Rule 150XM – Supervision of the System

- FBR will appoint a supervision team to oversee system operations.

Rule 150XN – Procedure for Cancellation or Termination of License

Licenses can be revoked if:

- The provider fails to meet service standards.
- The provider violates the Sales Tax Act.
- Suspended providers can appeal to FBR.

Rule 150XO – Fee and Charges

- Integrators can charge a fee within limits set by FBR.

Rule 150XP – Establishment of Inland Revenue Enforcement Network

- FBR will create special enforcement teams to detect tax evasion.

Rule 150XQ – Functioning of Inland Revenue Enforcement Network

- Inland Revenue officers will patrol business premises to check compliance.
- They will report non-integrated businesses to the Commissioner for tax recovery.

For further insight: [FBR](#)

3) SOP for Restoration of Sales Tax Registrations (U/S 21(2) of the Sales Tax Act, 1990)

The Office of the Commissioner Inland Revenue, Zone V, Regional Tax Office, Lahore vide circular no. C.No.528 dated 07/01/2025 has provided Standard Operation Procedures for the unit officers of

Sales Tax registration u/s 21(2) of the Sales Tax Act, 1990.

In light of the abovementioned circular, the following shall be the guideline for the aforesaid unit officers:

Guidelines for Restoration:

Fake/Inadmissible Input Tax Cases:

- The person shall deposit the defaulted amount of input tax has been before restoring registration.

Appeals Against Suspension/Blacklist:

- If an appeal is filed before ATIR or CCIR, restoration should comply with the orders after fulfilling legal requirements.
- The registered person must appear in person before the Unit Officer with original CNIC to verify identity.

Suspended / Blacklisted for being Non-Filers (More Than Six Months):

- Registration will be restored upon payment of late filing penalty under Section 33(1) of the Sales Tax Act, 1990.
- The person must provide a written explanation for non-filing of sales tax returns and commit to filing all pending returns as per Section 26(1).
- Physical appearance with original CNIC is mandatory for identity verification.

SALES TAX ON SERVICES NOTIFICATIONS

A.SINDH REVENUE BOARD (SRB)

1. Intimation Regarding Amendments to the Sindh Sales Tax Special Procedures (Withholding) Rules, 2024.

The SRB, vide Letter No.SRB.COM.II/DC-U-23/GT/2024-25/542570 dated 28th January, 2025 was pleased to issue a intimation regarding amendments to the Sindh Sales Tax Special Procedures (Withholding) Rules, 2024 directed to all service providers of Transportation or Carriage of Goods Services (Tariff Heading 9836.0000).

The services of transporting goods by road or through pipelines, classified under tariff heading 9836.0000, are taxable under the Sindh Sales Tax on Services Act, 2011 and relevant rules.

Through SRB Notification No. SRB-3-4/70/2024 dated 19th December 2024, amendments have been made to the Sindh Sales Tax Special Procedure (Withholding) Rules, 2014. Previously, service providers with at least 25 vehicles were subject to 100% withholding of Sindh sales tax. However, effective 1st January 2025, all transport service providers, regardless of fleet size, will now be subject to 1/5th (20%) withholding of the sales tax amount.

Registered service providers must ensure that tax withholding applies only to service recipients who qualify as withholding agents under the rules. These agents must provide Form SSTW-05 and Form SSTW-06 as proof of deduction. The withholding tax will be 1/5th of the total sales tax amount on the invoice, subject to the provider’s status as an Active Taxpayer under the law.

B. PUNJAB REVENUE AUTHORITY (PRA)

1. Food Delivery Platforms as 'Collecting Agents

The PRA, vide Notification No. PRA.32-34/2023/720 dated 2nd January was pleased to specify and declare all **Food Delivery Platforms/Third Party Delivery Service Providers** as “Collection Agents” for the purpose of collection of tax and deposit into Government Treasury under the The Punjab Sales Tax On Services Act, 2012 (**Act XLII of 2012**) from the person mentioned in the below table:

1	2	3	4
Persons or Class of Persons	Taxable Services	Classification	Rate of Tax
All persons or class of persons in Punjab providing taxable services mentioned in column No. 2, in the course of an economic activity.	(As mentioned in Entry NO. 11 to the 2nd Schedule of the Act XLII of 2012) Services Provided by restaurants including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc.	9801.2000, 9801.9000	(a) Five percent without input tax adjustment where payment against services is received through debit or credit cards, mobile wallets or QR scanning; and (b) Sixteen percent for others

For further insight: [PRA](#)

2. Extension in Return Filing & Payment date for Restaurants till 20th January 2025.

The PRA, vide Notification No. PRA/Orders.06/2021/596 dated 2nd January was pleased to extend the due date of payment of Punjab Sales Tax and filing of sales tax returns/withholding statements for tax period December, 2024 up to 20th January, 2025 only for the restaurant sector.

For further insight: [PRA](#)

CASE LAW: THE HON'BLE ISLAMABAD HIGH COURT HELD THAT NO COERCIVE RECOVERY MEASURES CAN BE TAKEN BY FBR WITHOUT DUE PROCESS.

Introduction:

The Hon'ble Islamabad High Court (IHC) was moved by Pakistan Telecommunication Authority (PTA), Communicator's Globe (Pvt.) Ltd., and Excel Labs (Pvt.) Ltd. ("Petitioners") in W.P. No. 181 of 2019 and connected petitions, challenging the Federal Board of Revenue (FBR) ("Respondent") over the coercive recovery of advance tax under Section 147 of the Income Tax Ordinance, 2001 ("ITO"). The Petitioners were aggrieved by FBR's actions, which included unlawful attachment of bank accounts and tax recoveries without following due process.

Brief Facts of the Case:

1) PTA's Case (W.P. No. 181 of 2019)

FBR issued a notice under Section 147, claiming PTA had unpaid advance tax for the relevant period. PTA, in accordance with Section 147(6), filed its own estimated tax liability, stating that no advance tax was due. FBR ignored the estimate and, without issuing mandatory notices under Sections 137 and 138, directly attached PTA's bank accounts on December 27, 2018, recovering PKR 1.37 billion. PTA contended that no prior notice under Sections 137 and 138 was issued before invoking Section 140. The tax assessment for the relevant year showed that a refund was due rather than a liability. PTA challenged the unlawful recovery before the Islamabad High Court.

2) Communicator's Globe's Case (W.P. No. 4497 of 2022)

FBR assessed a tax liability against the Petitioner, which was appealed before the Commissioner Inland Revenue (Appeals). The Commissioner (Appeals) annulled the tax assessment in favor of the Petitioner. Despite the annulment, FBR still demanded advance tax and issued a notice under Section 147 on September 1, 2022. Attached the company's bank accounts on November 28, 2022, recovering Rs. 49 million. The Petitioner argued that FBR violated due process by ignoring the annulment order of the Commissioner (Appeals). Illegally proceeding with tax recovery even though the assessment had been invalidated. The Petitioner approached the Islamabad High Court, asserting that FBR's actions were unjust and unlawful.

3) Excel Labs' Case (W.P. No. 4558 of 2022)

The Petitioner filed an advance tax estimate under Section 147(6), declaring a liability of Rs. 2.34 million instead of FBR's demand of Rs. 35.27 million. FBR ignored the estimate and proceeded with coercive recovery, attaching the Petitioner's bank accounts on November 10, 2022. At the time of recovery, FBR had no legal authority to reject the estimate under Section 147(6) without following due process. No notices under Sections 137 and 138 were issued before invoking Section 140 for bank

account attachment. The Petitioner contended that FBR's actions were arbitrary and in violation of tax laws, prompting the challenge before the Islamabad High Court.

Each Petitioner sought relief from the Islamabad High Court, arguing that FBR's actions were unlawful, violated due process, and caused financial harm due to coercive tax recoveries without following the legal framework of the Income Tax Ordinance, 2001

THE KEY LEGAL ISSUES:

- 1. What is the nature of liability to pay advance tax under Section 147 of the 2001 Ordinance?*
- 2. What are the consequences of a taxpayer defaulting on its obligation to pay advance tax and can advance tax be recovered coercively without the Tax Department issuing notices under Sections 137 and 138 of the 2001 Ordinance?*
- 3. Does the taxpayer have a remedy of appeal where a notice for recovery of advance tax has been issued under Section 147 of the 2001 Ordinance?*

ARGUMENTS OF THE PETITIONER'S COUNSEL

1) WRIT PETITION NO.181 OF 2019:

The petitioner's counsel argued that no advance tax was due from the petitioner under Section 147 of the Income Tax Ordinance for the 2018 tax year, as the tax return reflected a refund due. Despite this, a notice for advance tax was issued on 27.12.2018 without any prior notice under Sections 137 and 138 of the Ordinance. Furthermore, the recovery was made from the petitioner's bank on the same day under Section 140, without serving the required notices, and the tax return for 2019 showed a refund, proving that the amount recovered was not due.

2) WRIT PETITION NO.4497 OF 2022:

The petitioner's counsel emphasized that for tax year 2021, a reassessment order under Section 122(5A) created a demand of Rs.1 billion, which was annulled by the Commissioner (Appeals). Despite this annulment, the Tax Department continued demanding advance tax based on the annulled assessment, even after the notice under Section 147 was issued. The petitioner's counsel submitted that no advance tax was payable, as the petitioner falls under Section 147(1)(d) of the 2001 Ordinance, with tax being deducted at source under Division III of the Ordinance. Additionally, no advance tax had been paid by the petitioner prior to this. It was further contended that penal actions under Section 138 and recovery under Section 140 were without legal basis.

2) WRIT PETITION NO.4497 OF 2022:

The petitioner's counsel argued that the Tax Department lacked authority to seek recovery under Section 140 for advance tax where the petitioner had filed an estimate for tax year 2021 under Section 147(6), and the estimate had not been rejected. The counsel cited various precedents to support the position that the Tax Department had no grounds for coercive recovery.

Arguments of the Respodent's Counsel

1) Writ Petition No.181 of 2019:

The Tax Department's counsel argued that it was not obligated to issue notices under Sections 137 and 138 when advance tax was due under Section 147. The law prescribes the time for payment of advance tax under Section 147(5)(a), and there was no requirement for additional notices before making recoveries under Section 140. Once the deadline for payment passed, the Tax Department was entitled to recover the overdue amount without further notification.

2) Writ Petitions No.4497 and 4558 of 2022:

The Tax Department's counsel claimed that notices under Section 138 had been issued before any coercive recovery under Section 140. He argued that a notice under Section 147 to pay advance tax was akin to a notice under Section 137, and thus there was no need to issue a repeat notice. Additionally, any over-recovered advance tax could be refunded in accordance with Section 170 of the Ordinance.

Decision of the Hon'ble IHC

In **Writ Petition No. 181 of 2019**, the court held that the Tax Department's recovery action was illegal. The recovery was made from the petitioner's bank account without issuing the requisite notices under Section 137 or 138 of the Income Tax Ordinance, 2001. Instead, a notice was issued under Section 140 to the petitioner's bank, leading to coercive recovery. The court ruled that this action violated due process under Section 147(7) read with Sections 137 and 138, and declared the recovery without legal authority. Additionally, the petitioner had filed for a tax refund, which had not been processed. The court ordered the Commissioner to decide on the refund application within 60 days from the judgment's announcement and consider any additional payment due for delayed refunds as per Section 171 of the Ordinance.

In **Writ Petition No. 4497 of 2022**, the court found that the advance tax demand was based on an annulled reassessment order. The Commissioner Appeals had annulled the reassessment order, which meant that the tax liability should have been computed based on the original tax return filed by the petitioner. Despite the annulment, the Department issued a recovery notice based on the annulled reassessment order. The court deemed this recovery action illegal and without lawful authority. The petitioner had filed a refund application for Rs.47.51 million, which had not been processed. The court directed the Commissioner to process the refund application within 60 days from the judgment's announcement, considering any additional payments due for delayed refunds under Section 171 of the Ordinance.

In **Writ Petition No. 4558 of 2022**, the petitioner had filed an estimate under Section 147(6) of the Income Tax Ordinance, which the Commissioner had no statutory authority to reject. Despite this, the Department issued a recovery notice under Section 138(1) and subsequently took coercive recovery action based on this notice. The court ruled that the recovery actions were illegal and without lawful authority, as they occurred after the filing of the taxpayer's estimate. The petitioner

had also filed for a refund of Rs.45.16 million, which had not been processed. The court ordered the Commissioner to decide on the refund application within 60 days and consider any additional payments due for delayed refunds under Section 171 of the Ordinance.

TOPIC OF THE MONTH:RECOVERY OF TAXES NOT COLLECTED OR DEDUCTED

Section 162 of the Income Tax Ordinance, 2001 (“ITO” or “the Ordinance”) empowers the Federal Board of Revenue (“FBR”) to recover unpaid tax from taxpayers if the required tax has not been properly deducted or deposited by the withholding agents. Section 162 is reproduced as under:

Quote

162. Recovery of tax from the person from whom tax was not collected or deducted.—

(1) Where a person fails to collect tax as required under Division II of this Part or Chapter XII or deduct tax from a payment as required under Division III of this Part or Chapter XII, the Commissioner may pass an order to that effect and recover the amount not collected or deducted from the person from whom the tax should have been collected or to whom the payment was made.

Unquote

Section 162 applies wherever a withholding agent has failed to deduct withholding tax under Division II of Part V of Chapter X or Chapter XII or deduct tax from a payment as required under Division III of Part V of Chapter X or Chapter XII.

However, from a withholding agent point of view, section 161 empowers the Commissioner to recover such tax and default surcharge. Section 161 applies when a withholding agent collects or deducts tax but fails to deposit it. Section 161 reads as follows:

Quote

161. Failure to pay tax collected or deducted.— (1) Where a person— (a) fails to collect tax as required under Division II of this Part or Chapter XII or deduct tax from a payment as required under Division III of this Part or Chapter XII or as required under section 50 of the repealed Ordinance]; or (b) having collected tax under Division II of this Part or Chapter XII or deducted tax under Division III of this Part or Chapter XII fails to pay the tax to the Commissioner as required under section 160, or having collected tax under section 50 of the repealed Ordinance pay to the credit of the Federal Government as required under sub-section (8) of section 50 of the repealed Ordinance,

the person shall be personally liable to pay the amount of tax to the Commissioner who may pass an order to that effect and proceed to recover the same.

(1A) No recovery under sub-section (1) shall be made unless the person referred to in sub-section (1) has been provided with an opportunity of being heard. (1B) Where at the time of recovery of tax

under sub-section (1) it is established that the tax that was to be deducted from the payment made to a person or collected from a person has meanwhile been paid by that person, no recovery shall be made from the person who had failed to collect or deduct the tax but the said person shall be liable to pay 10[default surcharge]at the rate of twelve per cent per annum from the date he failed to collect or deduct the tax to the date the tax was paid.]

Unquote

Upon perusal of the above section, it can be construed that the burden to deposit the tax collected or deducts rests on the shoulder of the withholding agent wherein the withholding agent is personally liable for depositing the tax. In this regard, the Appellate Tribunal Inland Revenue, Islamabad ("ATIR") in the case M/s Khyber Pakhtunkhwa Highway Authority (KPH) vs Commissioner Inland Revenue, RTO, Peshawar in ITA Nos. 19/PB/2023 & 20/PB/2023 held that in cases of short deduction, the assessing officer was empowered to collect the appropriate amount from the recipient or payee of income, not from the payer. If the payer did not deduct tax or fails to pay to the Government treasury, then he would be deemed to be a taxpayer in default and provisions of penalty and default surcharge would apply accordingly and would resultantly face consequences as prescribed in the ITO. However, it remains payable by the recipient or payee directly.

There has been a recent surge in tax recovery notices issued under section 162, mostly based on data present on the IRIS portal of the taxpayer. This increases the cost of compliance for taxpayers. Further, in certain instances like salaried and dividend income, taxpayers are usually in possession of salary certificates, withholding tax certificates, and bank statements identifying the monies credited into their accounts. However, it is still surprising that the MIS database on IRIS is not reflecting the withholding tax deducted. In certain situations the MIS data is incomplete, and in other instances, the MIS itself does not correctly display the withholding tax amounts. When the MIS reflects that the tax deducted is less than the tax mentioned in withholding certificate corroborated by the bank statements, to ask the taxpayer to pay the remaining tax can be cruel and unjust.

These inconsistencies result in undue compliance burdens, and may unjustly force taxpayers to pay additional tax which can lead to unjust enrichment to the State.

The FBR must address this issue by ensuring proper reconciliation of data before issuing such tax recovery notices. Failure to do so could lead to the unfair recovery of tax amounts and place an unnecessary financial burden on taxpayers.

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