

BRIEF

*Imposition  
& withdrawal  
on the instructions of  
Senate of FBR*

SUBJECT:- MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE, REVENUE, ECONOMIC AFFAIRS AND NARCOTICS CONTROL TO BE HELD ON 07-12-2017 AT 02:30 A.M IN COMMITTEE ROOM NO.1, PARLIAMENT HOUSE, ISLAMABAD.

Agenda Item No. (iii)

Implementation status of the recommendations made by the Committee in its meeting held on 9<sup>th</sup> November, 2017, at Parliament House, Islamabad and conveyed to the FBR, regarding withdrawal of clarification letter on import of generating sets of 1100 KVA or above (GAS/Diesel) and immediate withdrawal of recently imposed regulatory duty on imported power generators.

Pursuant to Senate Standing Committee's recommendation, the FBR has withdrawn letter No.1(7)Mach/94 dated 05-12-2014 (copy enclosed as **Annex-A**).

In this regard it is clarification that due to withdrawal of Board's aforesaid letter, not only regulatory duty has been automatically removed on the industrial generators (not manufactured locally), but also rate of customs duty will be reduced from 11% to 5% vide Sr.No. 10 of 5<sup>th</sup> Schedule to the Customs Act, 1969.

Agenda Item No. (iv)

Briefing by the Federal Board of Revenue (FBR) on the pending refund cases in respect of M/s Raza Enterprises (Pvt) Limited, Pak Ethonal (Pvt) Limited, Orient Automotive Industries (Pvt) Limited and M/s Karimi Traders, as discussed in previous meetings of the Committee

In this regard, the updated refund payment status in relation to four companies is given below in random order:-

- i) In the first case, RPO was generated on 18<sup>th</sup> August, 2017 and payment has been made electronically on 31<sup>st</sup> October, 2017.
- ii) In the second case, two refund claims are outstanding. In one refund claim, the claimant had sought a time period up to 05.10.2017. However, the field formation has reported on 05.12.2017 that partial record has been provided by the taxpayer. It is further reported that final notice for provision of record has already been issued

to the taxpayer as per directives of the honourable FTO in the hearing on 01.11.2017.

In the second refund claim, payment against one RPO dated 04.08.2017 amounting to Rs.5,530,000/- has already been made. The field formation was directed to process deferred claim of the taxpayer and generate RPO for the valid amount. The field formation reported on 05.12.2017 that out of balance amount of Rs.120 million, claim of Rs.30 million has been verified and RPO is being issued within two days.

- iii) In the third case, taxpayer claimed that income tax refund claims of Rs.15.110 million for the tax year 2006 to 2016 are pending and till date he has not received any refund. In this regard it has been reported by field formation that total claim of Rs.12.651 million filed by the taxpayer for the year 2011 to 2016, has been issued to the taxpayer and no refund is pending.

It is further added that prior to the tax year 2011, the taxpayer was registered as individual with different NTN with different field formation. He may be advised to approach relevant field formation and file his claims there.

- iv) In the fourth case, the taxpayer has claimed that they received sum of Rs.6.99 million against income tax refund of Rs.21.216 million for the tax years 2012-2016. The field formation was directed that balance claims of the taxpayer be finalized. The field formation has reported that the case of the taxpayer has been selected for audit and income tax proceedings have been initiated on the following grounds:-

- a. The Taxpayer has not offered its other income at Rs.19,076,000/- for tax, therefore proceedings u/s 122(5A) of the Income Tax Ordinance, 2001 have been initiated for tax year 2012-2016 having tax impact of Rs.6,440,140/-
- b. The monitoring of withholding tax proceedings in the case for the years 2012 to 2016 have been initiated by confronting default amount of tax Rs.195,870,352/- and the taxpayer has submitted partial details which are under examination. Moreover, the taxpayer has also not provided reply backed by documentary evidence to the figure of withholding tax payable of Rs.24,991,315/- shown in its audited accounts during the above-mentioned period.

It is further reported that the taxpayer had agreed to cooperate with the department in culmination of proceedings initiated and once the proceedings are completed, the balance refund due to the taxpayer will be processed and issued expeditiously.



Annex-A

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GOVERNMENT OF PAKISTAN  
REVENUE DIVISION  
(FEDERAL BOARD OF REVENUE)

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C. No. 1(7) Mach./94-A / 144413

Islamabad, the 28<sup>th</sup> November, 2017.

The Collector,  
Model Customs Collectorate of Appraisement (East/West),  
Custom House, Karachi

The Collector,  
Model Customs Collectorate (Preventive),  
Custom House, Karachi

The Collector,  
Model Customs Collectorate,  
Port Muhammad Bin Qasim,  
Distt. Malir, Karachi

The Collector,  
Model Customs Collectorate (Appraisement),  
Custom House, Lahore

The Collector,  
Model Customs Collectorate,  
Islamabad, Sambrial/Sialkot, Peshawar, Faisalabad, Gwadar,  
Gilgit/Baltistan, Quetta, Hyderabad and Multan

Subject: **CLARIFICATION REGARDING APPLICATION OF SR.NO. 11 OF FIFTH SCHEDULE TO THE CUSTOMS ACT, 1969 ON IMPORT OF GENERATING SETS OF 1100 KVA OR ABOVE (GAS/DIESEL)**

I am directed to refer to Board's letter of even number dated the 5<sup>th</sup> December, 2014 on the subject cited above and to say that aforesaid letter may be treated as withdrawn.

  
(Mushtaq Ali Shahani)  
Secretary (Tariff-II)

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GOVERNMENT OF PAKISTAN  
REVENUE DIVISION  
(FEDERAL BOARD OF REVENUE)

C.No. 1(7) Mach./94-A/165966

Islamabad, the 5<sup>th</sup> December, 2014.

The Collector,  
Model Customs Collectorate of Appraisement (West/East),  
Custom House, Karachi.

The Collector,  
Model Customs Collectorate of Preventive,  
Custom House, Karachi.

The Collector,  
Model Customs Collectorate,  
Port Muhammad Bin Qasim,  
Distt. Malir, Karachi.

The Collector,  
Model Customs Collectorate (Appraisement/Preventive),  
Custom House, Lahore.

The Collector,  
Model Customs Collectorate,  
Islamabad, Faisalabad, Hyderabad, Multan, Sambrial/Sialkot  
Peshawar, Sust and Gwadar, Quetta

Subject: CLARIFICATION REGARDING APPLICATION OF SR.NO. 11 OF FIFTH SCHEDULE TO THE CUSTOMS ACT, 1969 ON IMPORT OF GENERATING SETS OF 1100 KVA OR ABOVE (GAS/DIESEL)

I am directed to refer to the subject cited above and to say that an issue has emerged as to whether "generating sets (gas/diesel) of 1100 KVA or above earlier entitled for exemption of whole of customs duty under S.No. 45 of SRO 567(I)/2006, dated 5.6.2006 and under PCT 8502.1390 respectively" imported by the units for producing power whose final product is not electricity qualifies under the expression "Projects for Power Generation" as given in Sr. No. 11 of Fifth Schedule to the Customs Act, 1969.


2. The issue has been examined. While transposing the SRO 567(I)/2006, dated 5.6.2006, to Part-II & III of Fifth Schedule to the Customs Act, 1969 exemption allowed to generating sets of 1100 KVA or above has been withdrawn as a matter of policy. Sr. No. 11(1) of

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Fifth Schedule to the Customs Act, 1969 allows exemption of customs duty in excess of 5% on import of "machinery, equipment and spares meant for initial installation, balancing, modernization, replacement or expansion of **Projects for Power Generation** through gas, coal, hydel and oil including under construction projects".

3. In view of foregoing, the Board is pleased to clarify that under Sr. No. 11(1) of Fifth Schedule to the Customs Act, 1969, concessionary rate of 5% customs duty is available to such Projects of Power Generation which exclusively produce power as an independent entity. The aforesaid concessionary benefit is not available to power generating machinery (gas/diesel generating sets) to be imported by the units for producing power whose final product is not the electricity.

  
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(Muhammad Haris Ansari)  
Secretary (Tariff-II)