

**IN THE OFFICE OF AHMAD SHUJA KHAN MEMBER (AUDIT/CRM) FEDERAL
BOARD OF REVENUE, ISLAMABAD**

ORDER

In pursuance of the directions of the Honorable Lahore High Court, Lahore, in the case of M/s JDW sugar Mills Limited vide judgement in W.P. No. 15473 of 2016 dated 31-10-2023 for determination of the applicability of audit parameters, whether selected rightly or otherwise. Relevant portion of Para 4 of the order is reproduced below:

“The deficiency in the impugned order is also not denied by all the learned counsels for the parties, therefore, with their concurrence, the impugned order dated 31-12-2015 is, hereby set aside, and the case is again remanded to the present incumbent Member (Taxpayer audit) for his decision afresh in terms of Para 9 of the Order of this Court passed in W.P. No. 30253 of 2014.”

2. The relevant excerpt from the decision dated 26.06.2015 in W.P. No. 30253 of 2014 titled Defence Housing Authority Vs CIR, etc [2015LHC5856] gives mandate to the undersigned to examine and decide the issue of selection of cases for audit for Tax Year 2011 is given below for ease of comprehension: -

“9. These cases are referred to Syed Ijaz Hussain Shah, Member (Audit) for his examination and decision in his personal capacity. All the petitioners shall send their representations alongwith supported documents to the Member. The Member (Audit) shall examine each case at his end and in case he forms an opinion that taxpayer was wrongly selected, he shall pass order accordingly. If his opinion is otherwise, he shall summon the taxpayer and shall provide an opportunity of being heard and thereafter a speaking order shall be passed. The needful shall be done within 60 days. If in his opinion, after hearing the taxpayer a parameter is not highly risk based, he shall drop the selection, on such parameter.”

3. A brief description of the facts leading up to the aforementioned Judgment of the Honorable, Lahore High Court is that for the Tax Year, 2011, FBR selected cases for audit through computer balloting on the basis of certain parameters under Section 214C of the Income Tax Ordinance, 2001 and under parallel provisions of Sales Tax Act, 1990 and Federal Excise Act, 2005. This selection was challenged by M/s Premier Industrial Chemical Manufacturing Co before the Honorable Lahore High Court, Lahore [(2013) 107 Tax 21]. The Honorable Court set aside the selection of cases for audit for Tax Year 2011 with the direction that FBR should initiate the process of selection for audits afresh, by framing separate sets of parameters for each tax type.

AHMED SHUJA KHAN
Member (Audit/CRM)
Federal Board of Revenue
Islamabad

Accordingly, the selection of audit for the Tax Year 2011 was done afresh under the Courts guidelines by the FBR through Computer Ballots on the basis of following parameters:-

PARAMETERS – INCOME TAX – CORPORATE.

- 1) Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
- 2) Sales decline >10% over last year
- 3) Refund Claim >Rs.10 million
- 4) Persistent decrease in net profit over last three years by more than 5%
- 5) Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
- 6) Cases indicating addition in plant and machinery exceeding Rs.200(M)
- 7) Cases showing addition in machinery and plant / depreciable fixed assets in Tax Year 2009 without corresponding increase in turnover for Tax Year 2011.
- 8) Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses
- 9) Deduction of tax on services rendered above 50(M)
- 10) Adjustment of BF losses / unabsorbed depreciation above 500(M)
- 11) Exempt income –other sources, capital gain, business and property >5(M)
- 12) Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
- 13) Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
- 14) Financial cost is more than 5% of turnover

PARAMETERS – INCOME TAX – NON-CORPORATED.

1. Opening stock not matching with closing stock of previous year.
2. Cost of Sales 80% of Total Sales (other than distributors / suppliers).
3. Continuously declaring Loss for the last three years.
4. Continuously declaring decreased Income for the last three years.
5. Total sales are less than previous year by 0%
6. Net tax paid is less than 10% in comparison of previous year.
7. Value of imports in customs differs from declared imports in incoming tax returns by 5%
8. Refund claim –.5(M)
9. Claim of exempt income salary, business, property, capital gains other sources and unclassified .2 (M).
10. Tax on services as minimum tax-over 1(M)
11. Non-filers of wealth-statement.
12. Increase in turnover does not reflect proportionate increase in income (with a margin ... percent).
13. Financial cost is more than 5% of turnover.
14. Hotels / Restaurants with cost of sales over 70% of turnover/ net sales.

PARAMETERS –SALES TAX –CORPORATE

1. Imports in Customs differs from declared Imports in S/Tax returns by 5%
2. Decline in value of supplies .10% over last year
3. Consistent decrease in output tax input ratio over last three years (total 3%)
4. Decrease in proportion of taxable total supplies in last three years 10% in each year
5. Sales tax carry forward above 100(M)


AHMED SHUJA KHAN
Member Audit (CRM)
Federal Board of Revenue
Islamabad

6. Where more than 30% purchases are from 'unregistered persons'
7. Where more than 30% sales are to 'unregistered persons'
8. Supply in blacklisted / suspended persons >50%
9. Purchase from blacklisted /suspended persons >50%
10. Non-filer, short-filer, nil-filer or null-filer for more than 6 months in the year
11. Manufactures showing value addition of 10%

PARAMETERS –SALES TAX –NON CORPORATE

1. Total value of Supplies is less than previous year by 10%
2. Net sales tax is less than 10% in comparison of previous year
3. Registered persons (other than exporters) claiming refund consecutively by the last 12 months
4. Import purchases differ from value of imports in customs data by 5%
5. Refund claim 5(M)
6. Where more than 40% of purchases are made from 'unregistered persons'
7. Where more than 50% sales are made to 'unregistered persons'
8. Supply to blacklisted / suspended persons 50%
9. Purchase from blacklisted / suspended persons >50%
10. Non-filer, short-filer, nil-filer or null-filer for more than 6 months in the year
11. Manufactures showing value addition of <10%

PARAMETERS –FEDERAL EXCISE DUTY- CORPORATE

1. Imports in Customs differs from declared Imports in ST/FE returns by 5%
2. Supplies decline >10% over last year
3. Consistent decrease in output tax / input tax ratio over last three years (total 5%)
4. Decrease in proportion of taxable supplies to total supplies in last three years by 10% in each year
5. Where more than 50% of purchases are made from 'unregistered persons'
6. Where more than 50% of sales are made to unregistered persons
7. Supply to blacklisted / suspended persons >50%
8. Purchases from blacklisted / suspended persons >50%
9. Non-filer, short-filer, nil-filer or null-filer for more than 6 months in the year
10. Manufactures showing value addition of <10%

4. This selection was again challenged in the case M/s. Ittefaq Rice Mills Vs FOP, etc [2013 PTD 1274] before the Honorable Lahore High Court, Lahore. The said case was dismissed by the Honorable Court with the following observations: -.

"23. For the above reasons, we find no illegality or error in the selection for audit of the appellant for the tax year, 2011 through letter dated 20-03-2013 issued by respondent No.3. For the same reasons, the order of the learned Judge in chambers does not call for any interference. This appeal is, therefore, dismissed with no order as to costs.

24. Appellant is, however, free to approach the Review Panel or the Regional Review panel as case may be, in case the appellant aggrieved with the application of any risk parameter to the case of the appellant on merits."


AHMED SHUJA KHAN
 Member (AUDIT/CRM)
 Federal Board of Revenue
 Islamabad

5. In compliance of the Hon'ble Court's above decision, the petitioners approached the Review Panels, who disposed off the applications. Not satisfied with the decisions of the Review Panels, the selection was again challenged before the Honorable Lahore High Court, Lahore. The Hon'ble Court referred the matter back to FBR in the case of M/s JDW Sugar Mills Ltd Vs Federation of Pakistan, etc (Writ Petition No. 19084/13) with the directions that FBR may constitute a High Powered Audit Commission for resolution of disputes regarding selection of audit cases.

6. The "High Powered Commission" in its meetings / deliberations held on 09.09.2014 reviewed all the cases, referred to in the aforesaid Order of the Honorable Lahore High Court, and arrived at the following conclusions:


"i. Selection of all the aforesaid cases for audit for Tax Year 2011 was IT based and were conducted in a transparent manner.

ii. Selection of all the aforesaid cases for audit for Tax Year 2011 was judicious and non-discriminatory and thus in line with the directions of the Honourable Lahore High Court in W.P No. 30786/2012 (M/s Premier Industrial Chemical Manufacturing Co)."

7. On the basis of above findings, the "High Powered Commission" decided that in order to maintain uniformity and to ensure non-discrimination amongst taxpayers who were selected for audit for Tax Year 2011, the Audit Policy should apply equally to all such cases including those specified in the Schedule-A to the Judgment of Hon'ble Lahore High Court dated 13.03.2014 in W.P. 19084/13 and all cases be audited accordingly.

8. Being aggrieved with the decision of the "High Powered Commission", M/s Defense Housing Authority and others filed petitions before the Honorable Lahore High Court Lahore. After listening to the views of both the parties, the Hon'ble Court issued directions as afore-mentioned to Syed Ijaz Hussain (Member TPA) in person.

9. Member TPA, Syed Ijaz Hussain as per directions of the Honourable Lahore High Court, Lahore decided all the representations filed before him on 31.12.2015, and held that, *"It is quite evident from the arguments advanced by the petitioners as discussed about that no empirical or clear evidence has been put forth to establish the inapplicability of most of the parameters. The mandate given to the undersigned by the Honorable Lahore High Court, Lahore strictly defined the contours of the final determination to be made by the undersigned in the representations filed as a consequence of the Court's above said decision. The objections filed by the taxpayers in their respective representations touch upon issues such as the*


AHMED SHUJA KHAN
Member (AUDIT/CRM)
Federal Board of Revenue
Islamabad

propriety, fairness, neutrality, reasonability, compatibility with national policies etc.; which the undersigned has not been mandated to adjudicate upon”.

10. Consequently, the then Member (Audit), FBR observed that, *“From the above referred Judgment of the Honorable Court, it is crystal clear that the applicability of even a single parameter constitutes “High Risk”. As is evident from Table II, at least one or more parameters are attracted in every case. I have therefore no doubt that cases of taxpayers were rightly selected by the Board for audit for Tax Year 2011.”*

11. Aggrieved from the then Member (Audit) decision dated 31.12.2015, M/s. JDW Sugar Mills Ltd and others filed petition again in the Hon’ble Lahore High Court who remanded the case back to the present Member (Audit), FBR for deciding the issue afresh in the light of the Para 9 of W.P. No. 30253 of 2014 titled Defence Housing Authority Vs CIR, etc [2015LHC5856].

12. In compliance to the directions of Honourable Lahore High Court referred at Para-1 above, letters were issued to all the petitioners to file their representations before Member (Audit). Resultantly, certain taxpayers filed their representations afresh. Representations already filed by the taxpayers to the then Member (Audit) and available record was also considered. After going through the grievances of the taxpayers in their fresh representations / petitions, it was observed that mostly the objections are of general nature as already observed by the then Member TPA in his order dated 31.12.2015 as discussed above. However each case was reviewed independently. The parameters already considered and dropped by the review panels and earlier decisions have also been given the same treatment as in the present order. As far as the determination of whether the parameters applicable in the impugned cases constitute “High Risk” or not, the Judgment of Honourable Lahore High Court, Lahore in the case of M/s Ittefaq Rice Mills Vs FOP & others [(2013) PTD 1274] has been followed. The relevant portion is reproduced below:

“17 It is important to dispel this impression harbored by the learned counsel for the appellant regarding ‘high risk cases’ necessarily mean cases which have a ‘high risk score’ calculated on the basis of the formula mentioned above. Perusal of the risk parameters show that every parameter is independent and self-contained. The impression gathered by the learned counsel for the appellant that there is a symbiotic relationship between the parameters and unless a basket of risk parameters is attracted to a case, the case does not qualify as a high risk case is erroneous. Multiple factors determine risk e.g., the nature of the risk parameter, the number of the risk parameters attracted in a case, the quantum of revenue involved, etc. Therefore, even a single risk parameter can identify a high risk case.

13. In pursuant to Hon’ble Courts directions referred at para-1 above, each case has been examined by the undersigned and case-wise status emanating from decision of the Honourable

AHMED SHUJA KHAN
Member (Audit/CRM)
Federal Board of Revenue
Islamabad

Lahore High Court Judgement dated 31-10-2023 in W.P. No. 15473 of 2016 which is given as under:

i. W.P. No. 15473/2016 and W.P. No. 15474/2016 titled JDW Sugar Mills Limited Vs FOP etc.

a) Case of M/S JDW Sugar Mill was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
7	Cases showing addition in machinery and plant / depreciable fixed assets in Tax Year 2009 without corresponding increase in turnover for Tax Year 2011.
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
Parameter No.	Parameter (S.Tax)
1	Imports in Customs differ from declared Imports in S/Tax returns by 5%
3	Consistent decrease in output tax input ratio over last three years (total 3%)
7	Where more than 30% sales are to 'unregistered persons'

b) Taxpayer was confronted vide letter/summon dated 13th December 2023. Taxpayer in his representation challenged the applicability of parameters on the basis of neutrality. Application of specific parameters bearing No. 6, 7 and 13 is attracted for selection of case for audit for TY 2011 under Section 214C of the Income Tax Ordinance, 2001 have already been dropped previously in the orders of learned Member (Audit) dated 31.12.2015. Regarding parameter No.1, plea of the taxpayer is genuine, therefore, Parameter No. 1 (Income tax) is also dropped. Thus taxpayer selection u/s 214C of the Income Tax Ordinance, 2001 is hereby **withdrawn**.

c) Regarding parameters applied for selection in Sales Tax audit for TY 2011, Parameter No. 3 has already been dropped previously in the orders of learned Member (Audit) dated 31.12.2015. However, AR failed to negate the applicability of the remaining parameters 1, and 7, therefore, case of the taxpayer is rightly selected as per available record. for Sales Tax Audit under Section 72B of the Sales Tax Act, 1990.

ii. W.P. No. 25104/2013 titled Qayyum & Associates Vs FOP etc.

a) Case of M/S Qayyum & Associates was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
11	Exempt income –other sources, capital gain, business and property >5(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)

AHMED SHUJA KHAN
Member (Audit/CRM)
Federal Board of Revenue
Islamabad

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014 but only submitted reply that audit in his case was already finalized on 12th June, 2017. As the taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.

iii. W.P. No. 16302/2016 titled Saleem Traders Vs FOP etc.

- a) Case of M/S Saleem Traders was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
2	Sales decline>10% over last year
3	Refund Claim>Rs.10 million
4	Persistent decrease in net profit over last three years by more than 5%.
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
12	Where addition or deletion to/from assets or transfer from Capital Work-in-progress to assets is >100(M)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. As the taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.

iv. W.P. No. 23783/2016 M/s. Raees Traders Vs FOP etc.

- a) Case of M/S Raees Traders was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
2	Sales decline>10% over last year
3	Refund Claim>Rs.10 million
4	Persistent decrease in net profit over last three years by more than 5%.
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
12	Where addition or deletion to/from assets or transfer from Capital Work-in-progress to assets is >100(M)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. As the taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.

v. W.P. No. 17087/2016 and W.P. No. 15870/2015 titled M/S Total PARCO Pakistan Ltd Vs FOP etc.

- a) Case of M/S Total Parco Pakistan Ltd, was selected for audit on the following parameters:.

HMED SHUJA KHAN
Member (Audit/CRM)
Federal Board of Revenue
Islamabad

Parameter No.	Parameter (S.Tax)
1	Imports in Customs differ from declared Imports in S/Tax returns by 5%.
3	Consistent decrease in output tax input ratio over last three years (total 3%)
7	Where more than 30% sales are to 'unregistered persons'
Parameter No.	Parameter (FED)
1	Imports in Customs differs from declared Imports in ST/FE returns by 5%
3	Consistent decrease in output tax / input tax ratio over last three years (total 5%)
6	Where more than 50% of sales are made to unregistered persons

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that review panel dropped parameter 03 related to consistent decrease in output/input ratios over the last three years (total 3 %), whereas parameter no. 1 and 7 were found applicable for selection for Sales Tax audit under Section 72B of Sales Tax Act, 1990. As the taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.
- c) Regarding parameters of FED, AR failed to negate the applicability of parameters therefore, case of the taxpayer is rightly selected for audit under Section 42B of Federal Excise Act, 2005 for FED as per available record.

vi. W.P. No. 17084/2016 titled M/S Diamond Tyres Ltd Vs FOP etc.

- a) Case of M/S Diamond Tyres Ltd, was selected for audit on the following parameters:.

Parameter No.	Parameter (Income tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that taxpayer has challenged the fairness of parameters and stated that these are highly illogical and unjustified. All the above parameters were found applicable in this case. As the taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.

AHMED SHUJA KHAN
Member (Audit/CRM)
Federal Board of Revenue
Islamabad

vii. W.P. No. 15472/2016 titled Treet Corporation Ltd Vs FOP etc

- a) Case of M/S Treet Corporation Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. Taxpayer in his representation challenged the applicability on the basis of neutrality being a big corporate taxpayer which could benefit small taxpayers. Plea of the taxpayer on this ground is rejected as certain parameters are in percentages which could equally be applied to small taxpayer as well. Therefore, case of the taxpayer was rightly selected as per available record.

viii. W.P. No. 33590/2016 titled M/s Nizami Wires Industries Pvt. Ltd vs FOP etc.

- a) Case of M/S Nizami Wires Industries Pvt Ltd, was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
8	Tax deducted u/s 231A (cash withdrawal without business related cost of sales / P&L expenses
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)

b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that taxpayer has challenged the fairness of parameters and stated that these are highly illogical and unjustified. Review panel dropped parameter 13 and remaining three parameters (1, 3, and 8) were found applicable in this case. As the taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.

ix. W.P. No. 13992/2016 titled M/s BNP Pvt Ltd. Vs FOP etc.

- a) Case of M/S BNP Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses


13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit). Taxpayer has objected that these parameters were arbitrary, vague and outcome of the assumptions and presumptions. That all the parameters are illogical, general and unreasonable. The taxpayer failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

x. W.P. No. 13622/2016 titled M/s World Call Telecom Ltd Vs FOP etc.

- a) Case of M/S Worldcall Telecom Ltd, was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
2	Sales decline >10% over last year
4	Persistent decrease in net profit over last three years by more than 5%
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
7	Cases showing addition in machinery and plant / depreciable fixed assets in Tax Year 2009 without corresponding increase in turnover for Tax Year 2011.
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.


AHMED SHUJAH KHAN
 Member (AUDIT/CRM)
 Federal Board of Revenue
 Islamabad

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that taxpayer has challenged the fairness of parameters and has raised general objections that these are highly illogical and unjustified. The taxpayer failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xi. W.P. No. 13378/2016 titled M/S Kohinoor Sugar Mills Ltd Vs FOP etc.

- a) Case of M/S Jauharabad Sugar Mills Ltd (formerly "Kohinoor Sugar Mills Limited"), was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses)
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that review panel dropped 1,6,10 and 12. Taxpayer has challenged the fairness of parameters and has raised general objections that these are in strict conflict with economic policy of government and are illogical. The taxpayer failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xii. W.P. No. 13621/2016 titled M/S Crescent Bahuman Ltd. Vs FOP etc.

- a) Case of M/S Crescent Bahuman Ltd, was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses)
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that review panel dropped 1 and 13. Taxpayer has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. That parameters are against Article 10-A, and 18 of the 1973 constitution. The taxpayer failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

AHMED SHUJA KHAN
Member (Audit/CRM)
Federal Board of Revenue
Islamabad

xiii. W.P. No. 13381/2016 titled M/S Chanab Ltd Vs FOP etc.

- a) Case of M/S Chenab Ltd, was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that taxpayer has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. That parameters are against Article 10-A, and 18 of the 1973 constitution. The taxpayer failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xiv. W.P. No. 25343/2016 titled M/s Ittehad Chemicals Ltd Vs FOP etc.

- a) Case of M/S Ittehad Chemicals Ltd, was selected for audit on the following parameters:.

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit). Taxpayer has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. That parameters are against Article 10-A, and 18 of the 1973 constitution. The taxpayer failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xv. W.P. No. 13884/2016 titled Flying Board & Paper products Ltd Vs FOP etc.

- a) Case of M/S Flying Board & Paper Products Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
2	Sales decline >10% over last year
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that review panel dropped parameter 3, 6 and 13. Taxpayer has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. The taxpayer failed to negate the applicability of the parameters 1, 2 and 14, therefore, case of the taxpayer was rightly selected as per available record.

xvi. W.P. No. 13885/2016 titled Flying Cement Company Ltd Vs FOP etc.

- a) Case of M/S Flying Cement Company Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that review panel dropped parameter 1, 6 and 12. Taxpayer has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. The taxpayer failed to negate the applicability of the remaining parameters, therefore, case of the taxpayer was rightly selected as per available record.

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xvii. W.P. No. 13886/2016 titled Flying Paper industries Ltd Vs FOP etc.

- a) Case of M/S Flying Paper Industries Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (S.Tax)
2	Decline in value of supplies .10% over last year
3	Consistent decrease in output tax input ratio over last three years (total 3%)
6	Where more than 30% purchases are from 'unregistered persons'
10	Non-filer, short-filer, nil-filer or null-filer for more than 6 months in the year
11	Manufactures showing value addition of 10%

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. However, record shows that taxpayer has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. The taxpayer failed to negate the applicability of the remaining parameters, therefore, case of the taxpayer was rightly selected as per available record.

xviii. W.P. No. 40507/2016 titled M/s Hunza Sugar Mills Pvt. Ltd vs FOP etc

- a) Case of M/S Hunza Sugar Mills Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
2	Sales decline>10% over last year
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
8	Tax deducted u/s 233A (cash withdrawal) without business related cost of sales/P&L expenses
13	Increase in turnover does not reflect proportionate increase income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted written reply that audit fore Tax Year 2011 has already been concluded vide order dated 15-06-2017, therefore summon be withdrawn. Thus case of the taxpayer is disposed off as audit proceeding completed and taxpayer has no objection on the audit selection.

xix. W.P. No. 13920/2016 titled M/s. Eagle Agro Engineering Corporation Vs FOP etc.

- a) Case of M/S Eagle Agro Engineering Corporation, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
2	Sales decline > 10% over last year
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
7	Cases showing addition in machinery and plant/depreciable fixed assets in Tax Year 2009 without corresponding increase in turnover for Tax Year 2011
12	Where addition or deletion to/from assets or transfer from Capital Work-in-progress to assets is >100(M)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend his case, therefore, case of the taxpayer was rightly selected as per available record.

xx. W.P. No. 17948/2016 titled D.G Khan Cement Company Ltd Vs FBR etc.

- a) Case of M/S D.G Khan Cement Company Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim > Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014 and challenged the fairness of parameters besides raised general objections that parameters are, vague, illogical and highly unjustified. Taxpayer's plea regarding parameter 1 is genuine and already dropped. However, taxpayer failed to negate the applicability of the remaining parameters, therefore, case of the taxpayer is rightly selected as per available record.

xxi. W.P. No. 12636/2016 titled M/s. Eagle Agro Engineering Works Vs FOP etc.

- a) Case of M/S Eagle Agro Engineering Works, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
2	Sales decline >10% over last year
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
11	Exempt income –other sources, capital gain, business and property >5(M)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer has objected that the parameters are discriminatory, unreasonable, not neutral and that the Audit Policy and parameters have not been fairly applied to the taxpayers across the board. Objections of the taxpayer, are general and has failed to negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xxii. W.P. No. 39170/2016 titled M/S Kohat Cement Vs FOP etc.

- a) Case of M/S Kohat Cement Company Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit) and has objected that all the parameters applied by the FBR on the company are either wrong or indicative of directly related to taxpayer's expansion, growth and better performance. AR further argued that all parameters applied to taxpayers are not high risky as taxpayer showed better performance when compared to tax year 2010. As already discussed that each parameter is high risk, therefore, taxpayer's objections are general and has failed to negate the applicability of the parameters, therefore, case of the taxpayer is rightly selected as per available record.

xxiii. W.P. No. 10626/2016 titled DHA Vs. FOP etc.

- a) Case of M/S DHA Lahore, was selected for audit on the following parameters::

Parameter No.	Parameter (Income Tax)
3	Refund Claim >Rs.10 million
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses
11	Exempt income –other sources, capital gain, business and property >5(M)
12	Where addition or deletion to / from assets or transfer from Capital Work-in-Progress to assets in >100(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit). The first objection was that return of the taxpayer for Tax Year 2011 was amended u/s 122(5A) before the audit selection u/s 214C and that the original return/deemed assessment order u/s 120 was not in the field rather an amended order dated **April 28th, 2012** already finalized. After examination of taxpayer's reply, as the order u/s 120 for Tax Year 2011 was already amended u/s 122(5A) and the original order dated 30.01.2012 was not in field, therefore, selection of taxpayer's case on **25.02.2013** on the basis of original return is not legally valid. In the light of said facts, selection for Tax Year 2011 u/s 214 C of the Income Tax Ordinance, 2001 is **withdrawn**.

xxiv. W.P. No. 13620/2016 titled M/S Ibrahim Fibers Ltd. Vs FOP etc.

- a) Case of M/S Ibrahim Fibers Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit). Taxpayer raised general objections that the grounds and parameters which were made basis for selection for audit are arbitrary, vague and are outcome of the assumptions and presumptions. That all the parameters are illogical, general, and unreasonable. Taxpayer's plea regarding parameter No. 3 has already been dropped by the review panel which is accepted by the undersigned as well as no refund claimed. Taxpayer failed to negate applicability of the remaining parameters, therefore, parameter No. 1, 5, 6 and 13 are applicable on the taxpayer. Thus case is rightly selected as per available record.

xxv. W.P. No. 13618/2016 titled M/S Syed Bhais Pvt Ltd. Vs FOP etc.

- a) Case of M/S Syed Bhais Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
2	Sales decline >10% over last year
3	Refund Claim >Rs.10 million
8	Tax deducted u/s 233A (cash withdrawal without business related cost of sales / P&L expenses
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit). Taxpayer raised general objections that the grounds and parameters which were made basis for selection for audit are arbitrary, vague and are outcome of the assumptions and presumptions. That all the parameters are illogical, general, and unreasonable. Taxpayer's plea regarding parameter No. 13 has already been dropped by the review panel which is accepted by the undersigned as well as no increase in turnover during Tax Year 2011. Taxpayer failed to negate applicability of the remaining parameters, therefore, parameter No. 1,2,3,8, and 14 are applicable on the taxpayer. Thus case is rightly selected as per available record.

xxvi. W.P. No. 29126/2016 titled Malik Naeem Ashraf Vs FOP etc.

- a) Case of M/S Malik Naeem Ashraf, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
2	Sales decline>10% over last year
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
11	Exempt income –other sources, capital gain, business and property > 5 (M)
12	Where addition or deletion to/from assets or transfer from Capital Work-in-progress to assets is >100(M)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xxvii. W.P. No. 1311/2016 titled M/S Nematullah Steel Mills Vs CIR etc

- a) Case of M/S Naimat Ullah Steel Works Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
2	Cost of Sales >80% of Total Sales (other than distributors/suppliers)
6	Net tax paid is less than 10% in comparison of previous year
7	Value of imports in customs differs from declared imports in income tax return by 5%
8	Refund claim >5(M)
11	Non-filers of wealth-statement
12	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. Taxpayer has submitted reply that audit of the taxpayer has already been concluded and tax demand has been paid, therefore, writ stands concluded calling for no representation from the taxpayer.

xxviii. W.P. No. 5958/2016 titled M/S Rana oil Mills Vs FOP etc.

- a) Case of M/S Rana Oil Mills, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
2	Sales decline>10% over last year
3	Refund Claim>Rs.10 million
4	Persistent decrease in net profit over last three years by more than 5%.
6	Cases indicating addiction in plant and machinery exceeding Rs.200(M)
12	Where addition or deletion to/from assets or transfer from Capital Work-in-progress to assets is >100(M)

b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xxix. W.P. No. 36804/2017 titled National Communication Services Ltd Vs FOP etc.

- a) Case of M/S National Communications services Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
3	Refund Claim>Rs.10 million
10	Adjustment of BF losses/ unabsorbed depreciation above 500 (M)
13	Increase in turnover does not reflect proportionate increase income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xxx. W.P. No. 318/2017 and W.P. No. 31699/2014 titled M/S Services Sales Corporation Pvt. Ltd Vs FOP etc.

- a) Case of M/S Services Sales Corporation Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
3	Refund Claim> Rs. 10 Milliomm

Parameter No.	Parameter (Sales Tax)
3	Consistent decrease in output tax/ input tax ration over last three years (total 3%)
7	Where more than 30% sales are to 'unregistered persons'

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record for Income Tax Audit under Section 214C of the Income Tax Ordinance, 2001. Regarding Sales Tax audit selection under Section 72B of the Sales Tax Act, 1990 parameter 7 has already been dropped. However, taxpayer failed to negate the applicability of parameters 3, therefore, case of the taxpayer was rightly selected as per available record.

xxxi. W.P. No. 37783/2017 titled M/S. Mughal Iron Steel industries Ltd Vs. FOP etc.

- a) Case of M/S Mughal Iron & Steel Industries Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
3	Refund Claim>Rs.10 million
6	Cases indicating addiction in plant and machinery exceeding Rs.200(M)
8	Tax deducted u/s 233A (cash withdrawal) without business related cost of sales/P&L expenses.
12	Where addition or deletion to/from assets or transfer from Capital Work-in-progress to assets is >100(M)

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- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. Taxpayer submitted reply that audit of the taxpayer has already been concluded and tax demand has been paid, therefore, writ stands concluded calling for no representation from the taxpayer.

xxxii. W.P. No. 24427/2017 titled M/S Nishat Power Ltd. Vs FOP etc.

- a) Case of M/S Nishat Power Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
5	Cases claiming credit under sections 65B & 65C exceeding Rs.10(M)
10	Adjustment of BF losses/ unabsorbed depreciation above 500 (M)
11	Exempt income –other sources, capital gain, business and property > 5 (M)
13	Increase in turnover does not reflect proportionate increase income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit) and has challenged the fairness of parameters and has raised general objections that parameters are, vague, illogical and highly unjustified. Taxpayer's plea regarding parameter 13 is genuine and already dropped. However, taxpayer failed to negate the applicability of the remaining parameters, therefore, case of the taxpayer is rightly selected as per available record.

xxxiii. W.P. No. 12047/2014 titled M/S. Asia Rice Mills (AOP) Vs FOP etc.

- a) Case of M/S Asia Rice Mills, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Opening stock not Matching with Closing stock of Previous year
2	Cost of Sales >80% of Total Sales (other than distributors/suppliers)
3	Continuously declaring Loss for the last three years
4	Continuously declaring decreased Income for the last three years
7	Value of imports in customs differs from declared imports in income tax return by 5%

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer submitted representation before the Member (Audit). The objections raised by the taxpayer are general in nature. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer is rightly selected as per available record.

xxxiv. W.P. No. 17226/2014 titled M/S Siddique Sons Vs FOP etc.

- a) Case of M/S Siddique Sons, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Opening stock not Matching with Closing stock of Previous year

3	Continuously declaring Loss for the last three years
4	Continuously declaring decreased Income for the last three years
5	Total Sales are less than previous year by 10%

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record for Income Tax Audit.

xxxv. W.P. No. 14901/2014 titled Abdul Muqsit Vs FOP etc

- a) Case of M/S Abdul Muqsit, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
2	Sales decline > 10% over last year
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. Thus the taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xxxvi. W.P. No. 3519/2015 titled M/S Rehan Can Pvt Ltd. Vs FOP etc.

- a) Case of M/S Rehan Can Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
8	Tax deducted u/s 233A (cash withdrawal) without business related cost of sales/P&L expenses.
13	Increase in turnover does not reflect proportionate increase income (with a margin of 5 percent)
14	Financial cost is more than 5% of turnover.

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The AR of the taxpayer attended the office and case was discussed in detail. AR explained that parameter No. 1, 8 and 13 were not applicable in his case. However, he could only provide computation regarding parameter No. 13 only. Parameter No. 13 is dropped. The taxpayer failed to defend/ negate the applicability of the remaining parameters, therefore, case of the taxpayer is rightly selected as per available record.

xxxvii. W.P. No. 12961/2015 titled M/S. Pakistan Engineering Company Ltd. Vs FOP etc.

- a) Case of M/S Pakistan Engineering Company Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared imports in Income Tax returns by 5%.
3	Sales decline>10% over last year
6	Refund Claim>Rs.10 million
13	Cases indicating addition in plant and machinery exceeding Rs.200(M)
14	Increase in turnover does not reflect proportionate increase income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer was rightly selected as per available record.

xxxviii. W.P. No. 52333/2019 titled Naubahar Bottling Company Pvt Ltd Vs FOP etc.

- a) Case of M/S Naubahar Bottling Company Pvt Ltd, was selected for audit on the following parameters:

Parameter No.	Parameter (Income Tax)
1	Value of imports in Customs differ from declared Imports in Income Tax returns by 5%
3	Refund Claim >Rs.10 million
6	Cases indicating addition in plant and machinery exceeding Rs.200(M)
10	Adjustment of BF losses / unabsorbed depreciation above 500(M)
13	Increase in turnover does not reflect proportionate increase in income (with a margin of 5 percent)

- b) Taxpayer was confronted vide letter/summon dated 13th December 2023. The taxpayer did not submit any representation before the Member (Audit) as directed by the Hon'ble Lahore High Court in para 9 of the Judgement in W.P.No. 30253 of 2014. The taxpayer failed to defend/ negate the applicability of the parameters, therefore, case of the taxpayer is rightly selected as per available record.

14. Furthermore, the Honourable Supreme Court in its Judgment reported as 2018 PTD 1444 regarding devising an Audit Policy has clearly held that:

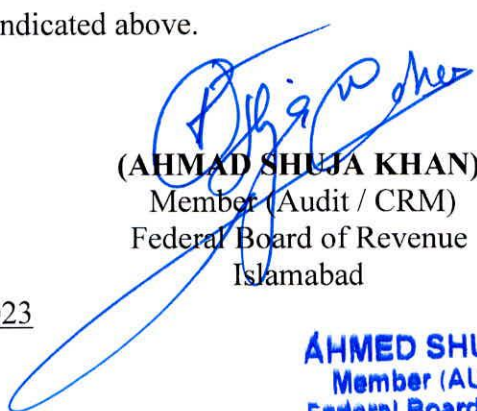
“10. The power to select for audit through random or parametric balloting is provided under the law. We have repeatedly held that mere selection for audit does not cause an actionable injury to the Taxpayer

and

“20. We note that the learned Single Judge had proposed certain guidelines for the Board to follow. However, while the guidelines may be useful pointers for the Board, it is not the function of the Courts to devise policies and recommend steps and measures to improve capacity or reduce delays which factors fall within the purview of policy. This is in view of the fact that on the principle of trichotomy of powers which lies at the heart of our Constitution it is the mandate of the Board to do so. The guidelines provided by the Courts in their judgments may therefore be used as useful pointers towards formulating policies in the future without in any manner encroaching the policy making domain of the executive.”

15. In view of above discussion including current proceedings, and the available record shows that the whole audit selection process has been made justly, fairly and in a transparent manner in accordance with law. Hence are not ultra vires of the Constitution or law and procedure.

16. Having considered the arguments of the learned counsels for the parties, departmental representatives and examination of the record of the cases as mandated by the Honourable Lahore High Court, Lahore and by virtue of jurisdiction conferred upon to the Member (Audit) under the provision of 214C of the Income Tax Ordinance 2001, 72B of Sales Tax Act, 1990 and 42B of Federal Excise Act, 2005 for selection of audit cases by the Board, the representations mentioned above emanating from the Honourable Lahore High Court's order dated 31.10.2023 in the case of W.P. No. 15473 of 2016 titled M/s JDW sugar Mills Limited Vs FOP, etc are disposed of in the manner and to the extent indicated above.


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Member (Audit / CRM)
Federal Board of Revenue
Islamabad

File No. 1(1-WP)SS(TPA)/2023 Dated: 28/12/2023

Copy to:

- 1) The all petitioners.
- 2) The Chief Commissioner Inland Revenue, LTO/CTO and RTO Lahore.
- 3) The Chief Commissioner Inland Revenue, RTO Faisalabad.
- 4) Secretary (PR), FBR (HQ), Islamabad for placement on FBR official web portal.

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