

**Proposed Draft Amendments in the Federal Excise Act, 2005 for simplification and harmonization through Finance Bill, 2024**

() in section 2, -

() after clause (6) a new clause (6A) shall be inserted, namely,-

“(6C)"Deputy Commissioner" means Deputy Commissioner Inland Revenue as defined in clause (17A) of section 2 of the Income Tax Ordinance, 2001(XLIX of 2001);”

() after clause (11A) a new clause (11AA) shall be added, namely,-

“(11AA) Field office” shall have the same meanings as assigned in clause (11AA) of section 2 of the Sales Tax Act, 1990”;

() in section 4, after sub-section (2), a new sub-section (2A) shall be inserted, namely,-

“(2A) The Deputy Commissioner may, by notice in writing, require any person who, in his opinion, is required to file a return under this section for a month or months but who has failed to do so, to furnish the return or returns within fifteen days from the date of service of such notice or such longer or shorter period as may be specified in such notice or as the Deputy Commissioner may allow.

Provided that the notice under this sub-section shall only be issued within five years, from the end of the financial year in which the return was to be filed.”

() Section 14 shall be substituted by the following new sections, namely

“**14. Best judgment Assessment.** - (1) Where a person,

(a) fails to furnish a return in response to notice under sub-section (2A) of section 4; or

(b) fails to produce before the Deputy Commissioner under section 46 or 46A, accounts, documents and records required, or any other relevant document or evidence that may be required by him,

the Deputy Commissioner may, after a notice to show cause to such person, based on any available information or material and to the best of his judgment, make an assessment of duty payable or refund due and also charge penalty and default surcharge.

(2) Where a best judgment assessment has been made due to default of clause (a) of sub-section (1) and the person files the return thereafter and pays the amount of tax payable along with default surcharge and penalty, the notice to show cause and the order of assessment shall abate.

**14A. Assessment of duty & Recovery of duty not levied or short levied or erroneously refunded.**- (1) Where due to any reason any duty or charge has not been levied or short levied or where the Deputy Commissioner suspects on the basis of audit or otherwise that due to any reason a person has;

(a) not paid or short paid due duty;

(b) claimed adjustment of duty or refund which is not admissible; or

(c) has obtained an amount of refund not due,

the Deputy Commissioner after issuing a show cause notice to the person shall pass an order to charge duty unpaid or short paid, disallow adjustment of duty or refund not admissible or to recover the amount of refund not due and shall also impose penalty and default surcharge in accordance with sections 19 and 8.

(2) For the purpose of this section, refund includes drawback of duty.

**14B. Limitation for Assessment.**— (1) The show cause notice under section 14 and 14A shall be issued within five years, from the end of the financial year in which the relevant date falls.

(2) An order under section 14 or 14A shall be made within one hundred and twenty days of issuance of show cause notice or within such extended period as the Commissioner may, for reasons to be recorded in writing, specify provided that such extended period shall in no case exceed ninety days:

Provided that any period during which the proceedings are adjourned on account of a stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the registered person not exceeding sixty days shall be excluded from the computation of the period specified in this sub-section.

(3) The expression “relevant date” means the date on which the payment of duty was due and in case where any amount of duty has been erroneously refunded, the date of its refund.”

() existing sections 14A, 14B and 14C shall be renumbered as 14C, 14D and 14E;

() for the renumbered section 14D the following shall be substituted, namely,-

**“14D. Limitation for issuing orders in certain cases.**— For the purposes of issuing an assessment order or any other order in consequence of or to give effect to any order made by the Commissioner (Appeals), Appellate Tribunal, High Court, or Supreme Court, the provisions of section 124 of the Income Tax ordinance, 2001 (XLIX of 2001) shall apply mutatis mutandis.”

() in the renumbered section 14E for the words “an officer of Inland Revenue” wherever occurring the words “the Deputy Commissioner” shall be substituted;

() in section 19, in sub-section (2), in clause (c) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

() in section 22,-

(i) in sub-section (1) for the words “officer of Inland Revenue authorized by the Board” the words “Deputy Commissioner authorized by the Commissioner” shall be substituted;

(ii) in sub-section (1) in the proviso for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

(iii) in sub-section (5) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted and for the words “such officer” the words “Deputy Commissioner” shall be substituted;

(iv) in sub-section (6) “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

(v) in sub-section (7) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

(vi) in sub-section (8) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

(vii) in sub-section (10) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

(viii) in sub-section (11) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

(ix) in sub-section (13) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

() in section 24 for the words “officer of Inland Revenue” in the marginal note and in the section the words “Deputy Commissioner” shall be substituted;

() for section 30, the following shall be substituted, namely,-

**“29. Federal Excise Authorities.-** (1) There shall be the following Federal Excise authorities for the purposes of this Act and rules made thereunder, namely,-

(a) Board;

- (b) Chief Commissioner Inland Revenue;
- (c) Commissioner Inland Revenue;
- (d) Commissioner Inland Revenue (Appeals);
- (e) Additional Commissioner Inland Revenue;
- (f) Deputy Commissioner Inland Revenue;
- (g) Assistant Commissioner Inland Revenue;
- (h) Inland Revenue Officer;
- (i) Inland Revenue Audit Officer;
- (j) District Taxation Officer Inland Revenue;
- (k) Assistant Director Audit.
- (l) Superintendent Inland Revenue;
- (m) Inspector Inland Revenue; and
- (n) Auditor Inland Revenue.

(2) The provisions of sections 207, 208 and 209 of the Income Tax Ordinance, 2001 (XLIX of 2001) in so far as these relate to appointment, jurisdiction, subordination and exercise of powers and functions by the income tax authorities shall mutatis mutandis apply in respect of the sales tax authorities specified in sub-section (1).”

() in section 32, for the words “officer of inland revenue” the words “Federal Excise authority” shall be substituted’

() in section 33, in sub-section (1) for the words “officer of Inland Revenue” the words “Federal Excise authority” shall be substituted;

() in section 34, in sub-section (1) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

() in section 36, in sub-section (1) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

() in section 37, after sub-section (3), in the second proviso for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

() in section 43, in sub-section (2) for the words “Commissioner or other officer of Inland Revenue” the words “Chief Commissioner or Commissioner” shall be substituted;

() in section 45, in sub-section (1) for the words “officer of Inland Revenue” the words “Deputy Commissioner” shall be substituted;

() for section 46, the following shall be substituted, namely,-

**“46. Audit.**-(1) The Commissioner on the basis of reasons to be recorded in writing, may direct the Deputy Commissioner to conduct audit of the duty affairs of any registered person and issue a notice to such registered person intimating him regarding audit of his duty affairs.

**Explanation.**- For the removal of doubt, it is declared that the powers of the Commissioner to direct conduct of audit and to issue a notice under this sub-section are independent of the powers of the Board under section 42B and nothing contained in section 42B restricts the powers of the Commissioner to direct conduct of audit and to issue notice under this sub-section.

(2) The Commissioner shall communicate the aforesaid reasons to the registered person whose audit is to be conducted through the notice under sub-section (1).

**Explanation.**- For the removal of doubt it is declared that the Commissioner shall not be and was never required to provide an opportunity of hearing and to pass any order before issuance of notice under sub-section (1).

(3) The reasons referred to in sub-section (1) shall be based on scrutiny by the Commissioner or any other Federal Excise authority, of the available records including sales tax and federal excise returns, invoices, income tax returns and withholding statements, financial statements and third party information.

(4) In case the Commissioner has information showing that a registered person is involved in fraud or evasion of duty, he may authorize a Deputy Commissioner, to conduct audit at any time in a year.

(5) Subsequent to the issuance of notice under sub-section (1), the Deputy Commissioner, may call for any record or documents including record maintained under the Act, the rules made thereunder or any other law for the time being in force for conducting audit of the duty affairs of the person and where such record or documents have been kept on electronic data, the registered person shall allow access to the Deputy Commissioner or the Federal Excise authority authorized by the Deputy Commissioner for the use of machine and software on which such data is kept and the Deputy Commissioner or the authority may obtain duly attested hard copies of such information or data.

Provided that the Deputy Commissioner shall not call for record or documents of the registered person after expiry of six years from the end of the financial year to which they relate.

(6) The Deputy Commissioner may require the person being audited to attend at his office in person or through an authorized representative or to produce, or cause to be produced such accounts, documents or any evidence as the Deputy Commissioner may consider necessary.

(7) The Deputy Commissioner may conduct or cause to be conducted such enquiry and obtain such information from any third party as he considers appropriate.

(8) The Deputy Commissioner shall conduct audit of the duty tax affairs to verify the correctness or otherwise of the declared liability of duty, duty paid, refund or rebate claimed, stocks consumed and available and to ascertain compliance or otherwise with the provisions of this Act and the rules made thereunder on the basis of the record and evidence, obtained under sub-sections (4) to (6) and other documents maintained or furnished under this Act and the rules made thereunder or under any other law.

(9) The Deputy Commissioner may conduct audit proceedings electronically through video links, or any other facility as may be prescribed by the Board.

(10) The Board may appoint as many special audit panels as may be necessary, comprising two or more members from the following –

(a) an officer or officers of Inland Revenue;

(b) a firm of Chartered Accountants as defined under the Chartered Accountants Ordinance, 1961 (X of 1961);

(c) a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966); or

(d) any other person as directed by the Board,

to conduct audit of a registered person or persons, including audit of refund claims and forensic audit and the scope of such audit shall be determined by the Board or the Commissioner Inland Revenue on a case-to-case basis. In addition, the Board may, where it considers appropriate, also get such audit conducted jointly with similar audits being conducted by provincial administrations of sales tax on services.

(11) Each special audit panel shall be headed by a chairman who shall be an officer of Inland Revenue;

(12) If any one member of the special audit panel, other than the chairman, is absent from conducting an audit, the proceedings of the audit may continue and the audit conducted by the special audit panel shall not be invalid or be called in question merely on the ground of such absence.

(13) The Board may prescribe rules in respect of constitution, procedure and working of special audit panel.

(14) Every member of the special audit panel shall have the powers of officers of Inland Revenue under sections 23 and 45 and sub-sections (1) to (3) of section 46.

(15) After completion of the audit, the Deputy Commissioner may, if required pass an order under section 14A, after providing an opportunity of being heard to the taxpayer under sub-section (1) of section 14A.

(16) Notwithstanding anything contained in sub-sections (8) and (10) where a registered person fails to produce before the Deputy Commissioner, any accounts, documents and records, required to be maintained under this Act or the Rules made thereunder or any other relevant document, electronically kept record, electronic machine or any other evidence that may be required by the Deputy Commissioner for the purpose of audit, the Deputy Commissioner may proceed to make best judgment assessment under section 14 of this Act.

(17) Notwithstanding the penalties prescribed in section 19, if a registered person wishes to deposit the amount of duty short paid or amount of duty evaded along with default surcharge voluntarily, whenever it comes to his notice, before receipt of notice of audit, no penalty shall be recovered from him:

Provided if a registered person wishes to deposit the amount of duty short paid or amount of tax evaded along with default surcharge during the audit, or at any time before issuance of show cause notice under section 14A he may deposit the evaded amount of duty, default surcharge under section 8, and --- per cent of the penalty payable under section 19:

Provided further that if a registered person wishes to deposit the amount of tax short paid or amount of tax evaded along with default surcharge after issuance of show cause notice under section 14A, he shall deposit the evaded amount of duty, default surcharge under section 8, and full amount of the penalty payable under section 19 and thereafter, the show cause notice, shall stand abated. ”;