

IN THE NAME OF ALLAH ALMIGHTY, THE MOST MERCIFUL,
MOST BENEFICENT

KHILJI & CO.

Chartered
Accountants

NEWSLETTER APRIL 2018



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DISCLAIMER

Khilji & Co (Chartered Accountants) is pleased to present Firm's Newsletter. The only purpose of this document is to provide updated information to our clients about recent circulars/ notifications issued by various authorities during this month and also to provide our clients with information on latest useful decisions of appellate courts. The information provided in this document should only be used in conjunction with professional opinion from tax/ legal advisor and checked for updated position of law. This document as a whole or its any part should not be reproduced in any form without prior written approval from Khilji & Co. This newsletter is distributed free of cost to our clients only. We humbly request our readers to please provide us the most valuable comments to make this more informative and useful. It has always been a pleasure to be of service to our clients.

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COURT (S) JUDGEMENTS

Case Law - Lahore High Court, Writ Petition No. 11253 of 2017, Date of order March 21, 2018

Brief Facts:

Treet Corporation Limited – the manufacturers of razors, blades and holders of high stakes in pharmaceuticals, challenged the selection for audit by FBR for tax year 2015 under section 72B of the Sales Tax Act, 1990 contending that the risk parameters adopted by FBR and the laid down criteria under which the petitioner had been selected for audit was not made available. The petitioner argued that the FBR cannot proceed with the selection of audit and a computer ballot until risk parameters have been laid down so as to form an integral part of the Audit Policy 2016.

Decision summary

- a. The Court made reference to its earlier judgments reported as 2013 PTD 1274 and 2015 PTD 2538 whereby it was held that the FBR has to show that the risk parameters have been duly framed by FBR and publically advertised. Further it was held that the power to select for audit was not unstructured and was to be based on reasonable criteria of selection.

Quote "On previous occasions too, audit policies have been challenged before this Court and as a consequence of a cluster of judgments, rules have been evolved by the superior courts which require the FBR to follow a certain mechanism in relation to selection of audit of the registered persons..... In the instant case, although an audit policy has duly been framed and from the preamble of the policy, reproduced above, it seems that much emphasis has been laid on a paradigm shift in the mindset of FBR which focuses on realignment from random to parametric selection and from general to risk based approach, FBR has woefully been lacking in laying down a clear policy which would show the risk parameters on the basis of which selection for audit is being conducted.." Unquote

- b. The Court held that FBR had not heeded to the concerns expressed by superior courts in above judgments and a number of other precedents.

Quote "The focus and emphasis of the superior courts has been on lending transparency and fairness to the entire process and in case the selection is parametric in nature, to lay down a clear audit policy by which it can be gleaned that FBR has duly framed the risk parameters and has publicized them openly." Unquote

- c. The audit policy 2016 cannot be put into effect until the FBR frames risk parameters on the basis of which the selection of audit is to be made.

Quote "To what avail, is the conducting of computer ballot if the parametric basis has not been framed and brought forth by FBR. Thus the very basis of the computer ballot is knocked out and in fact there is nothing before FBR on which the computer ballot is being held." Unquote

- d. The court also set aside the tax audit notice that the FBR had served on Treet Corporation. However, the court did not declare the Audit Policy 2016 unconstitutional.

- e. The judgment suggests that the FBR's 'paradigm shift in policy' could not withstand the court's scrutiny due to lack of transparency in the selection of audit cases.

Quote: "As a consequence thereof the case of the petitioner for selection of audit is also set aside. Although the challenge was also made to the Audit Policy, 2016 as a whole, I am not inclined to declare that Policy as unconstitutional. The Policy cannot be put into effect until FBR frames risk parameters on the basis of which the selection for audit is to be made." Unquote

- f. It is held that the mere framing of the Audit Policy, 2016 is insufficient until it is supported by clearly defined risk parameters on the basis of which the computer ballot ought to be held for selecting cases for audit.

NOTIFICATIONS / CIRCULARS

1. ICAP Circular

Institute of Chartered Accountants of Pakistan has issued Circular No 4 of 2018 dated March 26, 2018. This comprehensive Circular is about **Statement of Compliance for the Financial Statement prepared Under the Companies Act 2017.**

<http://khilji.net.pk/wp-content/uploads/2018/04/Circular-No.4-of-2018-Statement-of-Compliance-for-the-Financial-Statements-prepared-under-the-Companies-Act2017.pdf>

2. SECP Notification

The Securities and Exchange Commission of Pakistan has issued S.R.O. 423 (I)/2018 dated April 3, 2018. Through this SRO SECP has issues directive that a company shall, where applicable, while issuing notice of its general meeting, where a special business is to be transacted, in terms of specific referred sections of the Act detailing information at the minimum as applicable.

<http://khilji.net.pk/wp-content/uploads/2018/04/Disclosures-in-Statement-of-material-facts-section-1343-of-the-CA-1.pdf>

3. SECP Notification

The Securities and Exchange Commission of Pakistan has issued SRO. 421 (I)/2018. dated April 2, 2018. Through this aforementioned SRO SECP has specified a time period of forty-five days from the date of this notification for the shareholders of a listed company to provide valid information to complete arrangements for making payment of cash dividends through electronic mode.

<http://khilji.net.pk/wp-content/uploads/2018/04/Notification-under-Section-243-Unclaimed-Dividends.pdf>

4. KPRA Notification

Khyber Pakhtunkhwa Revenue Authority has issued Notification Ref: 1856-62 dated March 19, 2018. Through the aforementioned notification, KPRA has issued Amendments in Khyber Pakhtunkhwa Sales Tax on Services Special Procedure (Withholding) Regulations 2015.

<http://khilji.net.pk/wp-content/uploads/2018/04/Special-Procedure-Withholding-Regulations.pdf>

5. BRA Notification

The Baluchistan Revenue Authority (BRA) issued Notification Ref: (Not mentioned) dated (not mentioned). This Notification has been uploaded on BRA website on April 13, 2018. Through the aforementioned Notification BRA has issued Sales Tax (ST) Special Procedure (WHT) Rules, 2017 These are Rules are retrospectively from 1 July 2017.

<http://khilji.net.pk/wp-content/uploads/2018/04/Balochistan-ST-Special-Procedure-WHT-Rules-2017.pdf>

NOTIFICATIONS / CIRCULARS

6. SECP Notification / National Gazette

The Senate of Pakistan has recently passed an Act titled as "Corporate Rehabilitation Bill, 2018". The Act has been promulgated to ensure rehabilitation and reorganization of corporate organization who are being troubled or going through a distressful patch.

<http://khilji.net.pk/wp-content/uploads/2018/04/180418-206.1-Corporate-Rehabilitation-Act-2018.pdf>

7. FBR Tax Payer's Audit Policy 2017

Federal Board of Revenue has issued its "TAXPAYERS' AUDIT POLICY-2017"

<http://khilji.net.pk/wp-content/uploads/2018/04/2018410114156425AuditPolicy2017.pdf>

8. SECP Notification

The Securities and Exchange Commission of Pakistan has issued S. R. O. 483 (I)/2018 dated April 17, 2018. Through the aforementioned SRO SECP has notified Amendments to the Companies (Incorporation) Regulations, 2017.

<http://khilji.net.pk/wp-content/uploads/2018/04/180418-205.1-Amendments-in-Co-Inc-Regs-2017-SRO-483.pdf>

Miscellaneous

BLOGS:

Khilji & Co, Chartered Accountants has initiated a hosts of programs to enhance the skills of its professional team. We strongly believe that learning is a continuous process. Every individual has its own way of thinking and interpreting experiences into words.

KCO provided its professional team a platform in shape of KCO website to showcase their talent dynamics. Each member of the team has been asked to write his blog.

<http://khilji.net.pk/category/blog/>

<http://khilji.net.pk/category/blog/page/2/>

We at Khilji & Co, Chartered Accountants are fully aware of the fact that in this modern day and age connectivity is the key. Hence, we keep of striving for this through various social media forums. Please visits our pages and do provide your valuable comments.

<https://www.facebook.com/khiljiandco/>

<https://www.linkedin.com/in/khilji-and-co-chartered-accountants-982b73143/>

ACME OF THE MONTH

[KCO Tax Memorandum 2018](#)

While following customary operating procedure, Khilji & Co, Chartered Accountants have prepared a comprehensive **TAX MEMORANDUM** which envisages key useful information along with our professional and un-biased commentary on **Finance Bill 2018-19** presented in National Assembly on April 27, 2018. In order to keep our clients well informed, we are pleased to inform you that the **TAX MEMORANDUM** can be accessed from link mentioned hereunder. We are hopeful and confident that you will find the document useful and helpful. We shall welcome your comments and feedback for further improvements in future. This **TAX MEMORANDUM** is prepared on the basis of Finance bill 2018-19. The document may not be treated as final until the passing of the bill from the legislative forums upon which a final copy of the **TAX MEMORANDUM** will be shared with you.