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MOST BENEFICENT

KHILJI

&

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Chartered
Accountants

NEWSLETTER JANUARY 2019



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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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Lahore High Court – ITR No. 118 of 2015

Parties: CIR, VS M/S Haier Pakistan (Pvt) Ltd

Date of Order: 08-02-2018

Brief Facts:

Facts of the instant case are that the taxpayer drove income from wholesale of household goods and filed return for tax year 2012, which was taken to be assessment order under Section 120 of the Income Tax Ordinance, 2001 ("the Ordinance"). Notice under Section 122(5A) was served; confronting short payment of turnover / minimum tax under Section 113 and construing the assessment order as erroneous and prejudicial to the interest of revenue. Reply to the notice was found unsatisfactory; therefore, claim of reduced rate, at 80% of normal rate, under Clause (8) of Part III of The Second Schedule, was declined through amended assessment order. Appeal against the amended assessment order was allowed by first Appellate Authority. Second appeal filed by department was rejected by Appellate Tribunal Inland Revenue ("Appellate Tribunal") by holding the claim of 80% reduced rate as correct, which is assailed through this tax reference. Following question is proposed and pressed:--

"Whether on the facts and circumstances of the case, the household electronic goods can be termed as consumer goods for the purpose of clause (8) of Part III of Second Schedule while actual nature of the goods is consumer durables"

Decision:

The honorable Court after discussing the legal provisions and scope limited to above mentioned question involved rejected the departmental appeal after discussing the words used and their nature being inclusive and not specific in following words:

"9. We are in agreement with the submission by learned counsel for the respondent-taxpayer that the canon of 'ejusdem generis' is not applicable for interpretation of this Clause.

Meanings of these Latin words are, 'of the same kind or class'. Black's Law Dictionary defines it as, "A canon of construction that when a general word or phrase follows a list of specifics, the general word or phrase will be interpreted to include only items of the same type as those listed."

This tool applies to resolve the problem of giving meaning to ambiguous or unclear 'words of phrase of general nature', which is preceded or following by a group of words showing a list of person or things of same or similar nature and kind. Conversely; where some persons or things are expressly mention, without general word or phrase, it implies exclusion of other persons or things within same class. This canon of construction is called, 'Expressio unius est exclusio alterius' (the express mention of one thing excludes all others). Recourse to these principles of interpretation is based on presumptions adopted by courts.

Language of the Clause (8) used 'pharmaceutical products' and 'fertilizers' as specific words, which are not of same nature or kind. These words are followed by the phrase, 'consumers goods including fast moving consumers goods', which also has no nexus with the preceded specific words, therefore, has to be interpreted separately. The word 'including' used in this phrase enlarges the scope of words 'consumers goods'. Had the words 'consumers goods' been qualified by a phrase like; 'relating to agriculture' etc., then its construction would have been restricted only to those consumers goods, which might be used for agriculture activities.

10. For what has been discussed above, our answer to the proposed question is in affirmative."

Supreme Court of Pakistan - Civil Appeals No. 145 to 148 of 2010

Parties: Civic Centres Company (Pvt) Ltd VS CIR, Companies Zone, Islamabad

Date of Order: 28-05-2018

Brief Facts:

Facts of the instant case are that the taxpayer is a private limited company owned by the Government of Pakistan. A letter dated October 31, 1994 was written by the Prime Minister's Secretariat, incorporating a decision taken by the Prime Minister which proposed to transfer to the appellant two properties on cost basis from two State owned entities, respectively the KDA Commercial Centre/Complex situated on Shahrah-e-Faisal in Karachi owned by the Employees Old Age Benefits Institution ("EOBI") and the Zulfiqar Ali Bhutto (ZAB) Centre in Islamabad (also known as Islamabad Awami Markaz) owned by the State Enterprises Development Centre (Pvt.) ("SEDC") (hereinafter collectively referred to as "the properties"). Pursuant to the Prime Minister's decision the possession of the properties was handed over to the appellant. Subsequently, the Prime Minister recalled his earlier decision and the appellant was directed to return the properties to their owners. The appellant complied and returned the properties to their owners.

The rental income of the properties during the period they were in the possession of the appellant was declared by the appellant in its income tax returns for the income assessment years 1997-98, 1998-99 and 1999-2000 under the head "Income from business or profession" in terms of section 22 of the erstwhile Income Tax Ordinance, 1979 ("the Ordinance"). The appellant paid income tax on the rate prescribed on "Income from business" in terms of section 22 of the Ordinance. The department however considered that the income from the properties was "Income from house property" in terms of section 19 of the Ordinance, which attracted a higher income tax rate. The income tax department issued notices to the appellant under section 62 of the Ordinance alleging that the appellant should have - declared its rental income from the properties under the head "Income from house property" under section 19 of the Ordinance since the appellant was the owner of the properties.

The appellant replied to the notices denying that it was the owner of the properties and that it had declared its income under the correct head, that is "Income from business or profession".

The department did not agree with the appellant and its Deputy Commissioner of Income Tax/Wealth Tax Circle-03, Islamabad ("the Deputy Commissioner") determined that, "The properties in question have been transferred to the assessee under a P.M.'s directive", therefore, "the contention of the assessee that it's income is assessable under section 22 as business income is rejected and income is computed as 'income from house property' u/s 19 of the Income Tax Ordinance, 1979."

The appellant filed appeals challenging the aforesaid order of the Deputy Commissioner before the Commissioner of Income Tax (Appeals) ("the Commissioner") which were accepted and the Commissioner found that as the appellant did not own the properties, therefore, income from the properties could not be "Income from house property" and the appellant had correctly declared such income under the head "Income from business or Direct Tax Case profession." The department filed reference applications before the Income Tax Appellate Tribunal, Islamabad ("the Tribunal") against the order of the Commissioner which were dismissed.

The Tribunal in dismissing the reference applications also referred to its order dated April 17, 1999 in respect of the appellant's earlier assessment years wherein, "it was held that the 'condition (or test)' specified in section 19 is that the property must be owned by the assessee and since the assessee company was not found to be owner of the building rental income [sic] it could not be assessed u/s 19" The income tax department then filed a tax reference before the Islamabad High Court where the following question was framed,

"Whether on the facts and in the circumstances of the case the learned ITAT was justified in holding that buildings did not belong to the assessee company and as such not chargeable to tax under Section 19 of the Income Tax Ordinance, 1979" The question was answered by the learned judges of the High Court in the "negative"; thus, the appellant's liability to tax was to be calculated on the rate in respect of "Income from house property" and not under the head of "Income from business or profession".

Decision:

The honorable Court after discussing the legal provisions accepted the appeal in following words:

“12. The learned judges of the High Court gave unwarranted extended meaning to the words “owner” and “sale” and then applied such extended meanings to create liability under two fiscal statutes by disregarding the provisions of the Ordinance and Act. The Commissioner and the Tribunal had correctly decided the matter in favour of the appellant and these two concurrent decisions the High Court set aside without examining the relevant sections of the Ordinance and the Act. The learned judges simply relied on the dictionary meaning of the word “owner” without realizing that there can not be two owners of a property at the same time, which is essentially what the impugned judgment amount to. The High Court also disregarded the meaning of the Direct Tax Case words and expressions (“owner” and “belonging to”) used in the Ordinance and the Act. The learned judges of the High Court also misconstrued the definition of “sale” provided in section 54 of the Transfer of Property Act. With utmost respect the learned Judges of the High Court were wrong to declare that the appellant had, “become owner of the property”.

13. By order dated May 23, 2018 we had allowed these appeals for reasons to be recorded later and the aforesaid are the reasons for doing so.”

NOTIFICATIONS / CIRCULARS

SECP Notification

Introduction

SECP vide S.R.O.1569 (I)/2018 - Dated December 26, 2018 notified amendments to the Public Offering (Regulated Securities Activities Licensing) Regulations 2017.

Commentary

Amendment in Definitions

New definitions are inserted in Regulation # 2 of the Public Offering (Regulated Securities Activities Licensing) Regulations 2017, and are as follows: -

- 1 - "Companies Act" means Companies Act 2017 (XIX of 2017)
- 2 - "Issuer" shall have the same meaning as assigned to it in clause (XXVII) of Section 2 of the Securities Act 2015 (III of 2015)
- 3 - References of the Companies Ordinance 1984 are replaced with Companies Act 2017.
- 4 - "Underwriter" shall have the same meaning as assigned to it in Securities Act 2015 (III of 2015)

Amendment in Licensing Conditions - Schedule I

Banker to Issue, along with scheduled bank now could be the development financial institution and Credit Rating for Banker to Issue would be now A2.

LINK OF DOCUMENT

Please click below to view the Original Notification

<https://khilji.net.pk/wp-content/uploads/2019/01/Amendments-to-Public-Offering-Regulations-2017.pdf>

FBR Notification

Introduction

Federal Board of Revenue has issued SRO 29(I)/2019 dated January 8, 2019.

Commentary

Vide the above mentioned SRO, FBR has issued amendments in Income Tax Rules 2002. These amendments are made in Chapter VIII A, which describes the Banking Companies Reporting Requirements. In this particular Chapter, through this SRO following amendments are made:

Sr. No	Rule & Sub Rule	Clause Paragraph	Previous	Amendment
1.	39(B) (1)	Clause (d)	Currency Transactions Report” means currency transactions report generated and submitted by a banking company to the Financial Monitoring Unit under the Anti-Money Laundering Act, 2010 (VII of 2010)	Omitted
2.	39(B) (1)	Clause (e)	Written off Loans	Profit on Debt Statement
3.	39(B) (1)	Clause (e)	Currency transactions report, suspicious transactions report, details of any information or data through online access to central data base of the banking company	Omitted
4.	39(B) (1)	Clause (g)	“Suspicious Transactions Report” means suspicious transactions report generated and submitted by a banking company to the Financial Monitoring Unit under the Antimony Laundering Act, 2010 (VII of 2010);	Omitted
5.	39(B) (1)	Clause (h)	“Written off Loans Statement” means Written off loans Statement as specified in Form „C’;	“Profit on debt” means Profit on debt Statement as specified in Form „C’;
6.	39(C) (i)	Clause 1	Provided	Filed Electronically on FBR portal
7.	39(C) (i)	Clause 1	“Written Off Loans Statement, currency transactions report”	Profit on debt Statement
8.	39(C) (i)	Clause 3	and(2)	Omitted
9.	39(E) (i)	Clause 1	“furnish to the Board”	Filed Electronically on FBR web portal
10.	39 (E) A (sub rule 1 (ii))	Clause ii	The word “and” whenever occurring	The word comma shall be inserted
11.	39(E) (i)	Clause 1	Statement	Cash & Withdrawal Statement
12.	39(E) (i)	Clause 1	After the expression FORM B	The expression and “FORM D” shall be inserted
13.	39(E) (i)	Clause 2	“furnish to the Board”	Filed Electronically on FBR web portal
14.	39(E) (i)	Clause 2	“Written Off Loans Statement”	Profit on debt Statement
15.	39(E) (iii)	Clause 3	Every banking company officer, shall furnish to the Board a copy of each currency transactions report and suspicious transactions report generated by it at the time it is submitted to the Financial Monitoring Unit under the Anti-Money Laundering Act, 2010 (VII of 2010).	Omitted
16.	39(F) (i)	Clause 1	After the word “Information”	The word “in FORM A and FORM B shall be inserted “
17.	FORM-C	rule 39B(1)(h)]	Written off loan statement Information in respect of loan written off	Profit on debt statement Information of person receiving profit on debt exceeding one million for filer and five hundred thousand rupees for non-filer and tax deduction thereon during financial year of shall be Substituted

Link of Document

Please click below to view the Original Notification

<https://khilji.net.pk/wp-content/uploads/2019/01/2019181513838425S.R.O29Iof2019.pdf>

SECP Notification

Introduction

Securities and Exchange Commission of Pakistan has issued SRO 46(I)/2019 dated January 9, 2019.

Commentary

Through the aforementioned SRO SECP rescinds and delegates the powers and functions of the Commission under the Public Sector Companies (Corporate Governance) Rules, 2013, in the following manner:-

- Under rule 24(3) of the Public Sector Companies (Corporate Governance) Rules 2013, whereby power to relax any provision of the rules subject to such conditions as deemed fit to be imposed, was previously delegated to Registrar of Companies and shall now be exercised by the Commission.
- Under rule 25 of the Public Sector Companies (Corporate Governance) Rules 2013, whereby power to impose fine for contravention of the rules, is now delegated to Registrar of Companies Corporatization and Compliance Department (CCD).

Link of Document

<https://khilji.net.pk/wp-content/uploads/2019/01/Notification-for-delegation-of-powers-of-PSC-.pdf>

Tax Briefing on Finance Supplementary (Second Amendment) Bill, 2019

Khilji & Co (Chartered Accountants) is pleased to present this tax briefing, which is primarily aimed to help in understanding the impact of the changes that are brought about by Finance Supplementary (Second Amendment) Bill, 2019 relating to Income Tax, Sales Tax Laws, Federal Excise Duty and Customs Duty. We understand that the approval from National Assembly and the assent of President is still awaited. It is suggested that changes should not generally be acted upon without first obtaining appropriate professional advice.

This has always been a pleasure to be of service to our clients. This briefing can be accessed on our website on the following link

<https://khilji.net.pk/wp-content/uploads/2019/01/Second-Amendment-Bill-Commentary-Jan-2019-1.pdf>

FBR Notification

Introduction

Federal Board of Revenue issued Notifications ref: SRO 69(1)/2019 dated January 24, 2019.

Commentary

The aforementioned SRO has been issued whereby following draft Rule "231C: Alternate dispute resolution" to substitute the existing Rule with same number in Income Tax Rules, 2002 pursuant to amendments presented vide SRO 1352(1)/2018. The Rule incorporates the following significant corresponding changes introduced through Finance Act, 2018 vide Section 134A of the Income Tax Ordinance, 2001 relating to Alternate Dispute Resolution.

- The Rule is applicable on all cases of disputes brought or specified for resolution under section 134A.
- The Rule defines "applicant", "Committee" & "dispute"
- The person interested is required to submit an application (the format of draft application has also been introduced in the Schedule)
- The FBR will examine the contents of application
- On satisfaction the application may be referred to the Committee for the resolution of hardship
- The time limit of 60 days for resolution has been specified, however the section 134A(5)&(8) prescribes period of 120 days and in case of failure, the Board shall dissolve the Committee and the matter will be decided by the relevant Court or appellant authority that issued notice of withdrawal (the appeal will be decided as if no withdrawal was made)
- The Committee will consist on (a) A Commissioner IR rank Officer, (b) a person nominated by the Appellant from a panel notified by the Board (a Senior CA, Senior Advocate, reputable businessman as nominated by Chambers of Commerce and Industry, (c) a retired District or session Judge nominated under sub-ruler (5) while sub-rule (5) specifies that the members (a) & (b) will select member (c) from a FBR list who will be chairperson of the Committee)
- The shall notify a panel of a above mentioned retired judge, senior chartered accountant, senior advocates and reputable businessmen as per eligibility criteria specified in Part II of the Schedule.
- After notification, the parties shall withdraw appeal pending before any Court or appellant authority related to hardship in the form set out in Part III of the Schedule. Proceedings of Committee will be started after receipt of withdrawal of appeal.
- The Chairperson shall be responsible for deciding the procedure to be followed
- The Committee may seek information, expert opinion, make inquiries and conduct audit too.
- The order of Committee shall be binding on all parties.
- The remuneration have also been prescribed i-e for Chairperson, lower of Rs. 75,000 or 4% of disputed tax demand and for person (b) of Committee, lower of Rs.50,000 or 3% of disputed tax demand. This will be paid from budget allocation of Board within 15 days of receipt of order.

Link of Document(s)

1. SRO 1352(1)/2018

<https://khilji.net.pk/wp-content/uploads/2018/11/201811616115839402SRO1352.pdf>

2. SRO 69(1)/2019

<https://khilji.net.pk/wp-content/uploads/2019/01/20191241615049251S.R.O69I2019-1.pdf>

SRB Notification

Introduction

Sindh Revenue Board issued Notifications ref: SRO Ref: No SRB-3-4/3/2019. dated January 28, 2019.

Commentary

The aforementioned SRO prescribes the changes in Rules relating to appeal documents, authorized signatories and appeal procedure for appeal to Commissioner (Appeals). The appeal documents have been made almost similar to Tribunal appeal document format.

- Persons to be signatories have been mentioned in Rule 57A for individual, AOP & Company.
- Interestingly, application for late filing and any other have also been mentioned in the appeal documents.
- For additional grounds, first an application have to be made stating the reason and justification before the final hearing. However, the Commissioner (Appeals) may allow or disallow, inclusion of all or any grounds of appeal, after hearing the parties.
- The Rule 57H prescribes the procedure for E-hearing of appeals relating to Hyderabad & Sukkur regions on authorized software installed at both offices i-e Commissioner (Appeals) & Regional office. However, same procedure for appeal shall be followed. The Commissioner (appeals) may call both parties for hearing instead of e-hearing.
- The Order shall bear seal and stamp bearing the name and insignia of the Commissioner (Appeals) on every page of the order.
- Through Rule 57J, the Commissioner have been empowered to prescribe procedures & guidelines for the purposes of Rules 57 to 57L.

Link of Document(s)

https://khilji.net.pk/wp-content/uploads/2019/01/20190128_Act.pdf

BLOG OF THE MONTH

Khilji & Co, Chartered Accountants has initiated a host 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 has 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. Starting from this month, KCO will publish one selected blog as a whole in its monthly Newsletter.

This blog is written by **Mr. Ajmal Khan, Director Khilji & Co, Chartered Accountants**. Please read this blog and provide your valued comments.

BRIEF HISTORY OF INCOME TAX

Brief History of Income Tax Laws:

The history of taxation evolved from ancient Egypt, pharaohs who used tax collectors – called scribes – to collect money from their citizens to meet expenditure of their Government. This wasn't typically an income tax instead it was tax on consumption of specific type of goods such as cooking oil. The concept of taxation was also found in the Ancient Greece. They called it the eisphora to finance wartime expenditures and nobody was exempted from tax.

Taxes in the Roman Empire:

The Romans introduced the concept of customs duties on imports and exports. These duties were called portoria. They introduced the concept of publicani a public contractor to whom tax collection from a particular area of jurisdiction was assigned. They are agents of the central government who traveled across the Roman Empire to collect taxes from public and pay to the government. Publicani are more influential group of people they become involved in malpractices, such as fraudulent activities misuse of power for personal interest and crude conduct toward slavery. Caesar Augustus wasn't just known as a great Roman leader for his wartime abilities; he was also known for his brilliant tax strategies. He eliminated the concept of "publicani" and handed over the reins to the cities and colonies. Caesar Augustus's inheritance tax system had been adopted by British and Dutch invaders who created their own tax laws centuries later.

Taxes in Ancient Great Britain:

Great Britain inherited its tax history from Romans empires. In fact, there had been massive wars on taxes against corrupt Roman tax collectors. After the fall of Rome, Saxon kings imposed their own taxes on the people of Great Britain. These taxes were called "danegeld", and they were assessed based on the value of land and property.

Taxes and wars were a common theme throughout the middle Ages in France and Great Britain. The invention of world first income Tax was typically attributed to the Great Britain. In the 1800s, England was best known for introducing its own income tax to help deal with Napoleon. That tax would later be repealed after 1816 – one year after Napoleon was finally defeated at the Battle of Waterloo.

Taxes in Colonial America:

In Colonial America taxation was first introduced by the ruling British Government in 1733 through Molasses Act in the territories under its occupation. The Act was modified from time to time and tax net was extended to generate more revenues for the Government. Ultimately, these taxes would lead Americans to revolt against the British in 1773. After the revolutionary war the new nation of America didn't want to tax its people. For most of America's early history, the country was tax-free. However, the government from time to time levy different types of taxes to fight wars against France and England in 1790s and 1812.

Even though these taxes were greatly opposed in the US by internal rebellion. America Implements Its First Income Tax for the US Civil War in 1861 through Revenue Act 1861 subjected all incomes above \$800 to tax. The Government collected income taxes during the civil war all the way up to 1872 when the revenue act was repealed. Nevertheless the foundation was laid for the modern US tax system.

World Wars and Income Taxes:

World Wars have been the most expensive wars ever in the history. To finance the war, the United States introduced three Revenue Acts, 1916 Revenue Act and War Revenue Act of 1917 cranking up tax rates and increasing the number of taxpayer Americans to 5% of total population. The same strategy was followed by Great Britain and other European Allies as well. After the First World War, taxes were gradually rolled back. However the Second World War has a profound impact in the history of taxation. Hitler destroyed the economies of colonial powers, Great Britain and France to such extent that they are no longer capable to maintain their military presence in colonies outside their home land. The adjustment from war economy to civil economy was painful because the goods (Weapons) over produced in war times were no more required in civil economies become worthless. Britain incurred huge debt to finance the war against Germany. There was a complete economic recession after the war was ended that resulted political turmoil in the British occupied territories. Britain had to retreat mostly from all occupied territories, (in 1947 from the Subcontinent, 1946 from Jordan, 1948 from Sri Lanka and Myanmar and 1952 from Egypt) purely on financial reasons. Thanks to Hitler otherwise the people of these countries would have to wait for another thirty years to independence.

The physical and economic recovery of Europe was, despite the enormous damage done to the infrastructure, industry, agriculture and commerce, to be quicker than most observers expected. To disentangle the effect of Second World War new economic developments emerged in the Europe and in the newly born economies/countries as a result of divide & rule think tank. Taxation is one of the best revival strategies to escape from the post war financial crises. During Second World War, Europe was entirely ruined as millions of people were dead and paralyzed. Residential areas, Factories, schools and hospitals were completely devastated. There was an immediate need for food, medicines and homes for war affectees to survive. Substantial amount of fund was required to spend on rebuilding of schools, hospitals and homes for homeless people. The economists and strategic planners to introduce new taxes and progressive tax rates to support the rehabilitation work.

The economy of subcontinent who participated in the Second World War as ally of the British -Government was badly affected the Second World War. The British Government had to elevate tax rates and levy additional taxes both within the UK as well as in its overseas possessions to overcome the financial repercussions of war.

Brief History of Income Tax laws in Pakistan

Before partition:

Income Tax Act 1860:

In the undivided India, Income Tax was for the first time in the history introduced in 1860 by the British Government through Income Tax Act 1860 (James Wilson First Finance member of India) to overcome the financial difficulties after 1857 war of independence. In the This Act, exactly the same pattern was followed as that was prevailing in those day in the United Kingdom. The Act was enforced effective from July 1, 1860 and was continued for a period of five years up to 1st August 1865. Then it was withdrawn in 1865.

One of the main features is that agricultural income from land, above the rental value of Rs. 690 per annum was taxable.

Tax was levied on persons earning income from Rs. 200 to Rs. 500 @ 2% and from Rs. 500 and above @ 4%. Exemption was available to persons earns income below Rs. 200 including agriculture income. To all Government properties,

Exemption was also granted to cultivation of land whose rental value is below Rs. 600 per annum.

Religious & charitable institutions.

Rates was changed from time to time.

Although Income Tax of 1860 was not successfully operated but the procedure concerning levy and collection of taxes was continued under different nomenclature.

License Tax Act 1867:

Income Tax was not applicable for next two years thereafter license tax was introduced viz “ The License Tax Act of 1867” which was abandoned the next year. Income earned up to Rs.200 per annum was not taxable under this law. Amounts earned above this limit were taxable at the rate of 2 per cent. In this Act, agricultural income was exempted from license tax under License tax Act 1867 and Act no VI of 1880.

Certificate Act 1868:

Later on in 1868, the license tax act name was changed to ‘The Certificate Act, 1868’ and the exemption limit was raised to Rs.500, but the rate of tax was also reduced to 1.6 percent. The act was abandoned the next year.

General Income Tax Act-II:

In 1869 Certificate Act was converted in to General Income Tax Act II and agricultural income was again brought under taxation. But this time different rates of tax were proposed on different types of income. The Act was enforce for only one year time and in next four years, tax was levied by annual legislation. In 1872 Exemption limit was raised to Rs.1,000. In 1877 further developments came-in in the form of License Act, 1877 wherein tax on trade and access on land was proposed. The Act of VI of 1880 and other local Acts continued till 1886 to the whole of India.

Income Tax Act 1886:

Income Act 1886 was an important landmark in the history of taxation of the Subcontinent. This was the first systematic tax legislation in the subcontinent which brought remarkable improvements to the tax system. A proper definition of agricultural income for the first time was made in the Act and complete exemption and Concession in payment of tax was granted to a person paid life insurance premium. Income Tax Act, 1886, itself continued up to 1918 and during its life of 32 years, only one major amendment was made in it in the year 1903.

There were only four heads of income;

- Income From Salaries & Pensions
- Profit of Companies
- interest on securities
- Income From other sources including property income

Tax was levied on individual different sources of income separately not on aggregate basis (Total income). Flate rate of 5 pie in the rupee of 192 pie (2.6%) was applied on income above Rs. 2,000. Rate of 4 pie (approx. 2.083%) on salary income between Rs. 500 and Rs.2,000 was applied. Basic exemption was Rs. 500. Interest on securities was taxed on the same rate. Exemption was raised to Rs. 1000 in 1903.

Later on enhanced rates of taxation by gradation and graduation were introduced in 1916. Eight different tax rates were introduced for different income brackets. The increase in tax rates was caused due to the first World War 1914. Additional income tax was also introduced in 1917 for the first time in the form of super tax.

Till 1916 there was no penalty for late filing of return except companies but in 1917 it was made obligatory for all taxpayers whose income exceeds Rs. 2,000. Act Of 1886 stood enforce for 32 years till 1918 with a number of amendments made from time to time which are imperative part of the Act. Graduated Super Tax on income over Rs. 50,000 on undistributed profit of corporation and other entities was introduced through Super Tax Act 1917 which was subsequently modified into super tax Act 1920.

Income Tax Act no VII of 1918:

Act no VII of 1918 was introduced to recast the entire tax laws of 1886. New concepts of total income Accrues, arises, or received has been introduced in the law for the first time in British India to determine the rate. The levy was imposed in respect of taxable income in the year of assessment based on income of previous year. There were six heads of income under the Income Tax Act 1918.

- Salary income
- Interest on securities
- Income from House Property
- Business Income
- Income from professional earning
- Other sources.

Still there was no capital gain tax. Rates of taxes was from four pie to twelve pie in a rupee of 192 pie.

Income Tax Act of 1922:

The Act continue enforce till 1922 which was replaced with The Income Act no XI of 1922 on recommendation of All India Income Tax committee appointed in 1921. The Income Tax Act 1918 and Super Tax Act 1920 was consolidated into Income Tax Act 1922.

In the Income Tax Act 1922, Administration of Income Tax was shifted from the hands of provincial Governments to the Central Government of India. Another remarkable feature of this Act was that the rates were to be enunciated by annual finance Acts instead of Basic enactments.

This Act like Act of 1918 was applicable to all Incomes except Capital Gain, Casual income and income in kind not convertible into money except rent free accommodation. Tax was levied in the year of assessment on the basis of earning of previous year.

In Income Act 1922 set of loss against profit or gain under one head of income against the other one was permitted provided that the loss was relating to the same assessment year. This Act was amended as many as twenty times between 1922 and 1939.

Income Tax Act no VII of 1939:

The increasing need to finance the growing annual expenditure and fiscal deficit resulted from Second World War, the British Government had to take steps to generate more tax revenues to overcome the financial crisis. In 1935 an expert committee (AIYER) was formulated to investigate the existing income tax system from all possible angles and to submit a report on tax incident and efficiency of tax administration. The Act 1939 unleashed a new era in the history of Indian income tax system. The Act No VII of 1939 was an amended Act recommended by the committee in their report in 1936.

In the new tax enactment the basic tax structure was carried from 1922 and ushered into a new era introducing new concepts and definitions in the law;

For the first time residential status was defined in the law, receipt basis was converted into accrual basis. Carried forward of business loss was permitted for six years.

Slab rates were introduced splitting income into slabs and progressive higher tax rates was charged on successive slabs of income.

In 1944, "Pay as You Earn" scheme was introduced. (This scheme which still continues in a little different shape requires an early depositing of tax by certain persons.) • In 1945, distinction between "Earned" and "Unearned" income was made and some concession was provided on the 'Earned Income'.

After Partition:

Promulgation of Income Tax Act, 1922:

After Independence both the Governments of India and Pakistan in 1947, adopted the Income Tax Act, 1922 as its official income tax laws. The provisions of the Act were extended to the whole of Pakistan except the special areas.

Formation of the Taxation Inquiry Committee:

In June 1958 a special taxation inquiry committee was formed to review the existing income tax system and submit recommendation to the CBR for amendments in current tax laws. The Committee consists of officials and representatives of trade and commerce. The recommendations of the committee were accepted and income Tax Act, 1922, was amended accordingly.

Abolition of Super Tax:

In 1959, Super Tax was abolished on income of all persons except registered firms and companies. The rates of each slab were expressed as a percentage of income.

Change of Fiscal Year:

In 1960 financial year was changed to commence on 1st July and end on 30 June. Previously, it used to start on 1st April and end on 31st March.

Income Tax Committee:

In 1961 the Central Board of Revenue (CBR) introduced Income Tax Committee for simplification of Income Tax laws 1922 and procedures.

Self-Assessment Scheme:

In 1965 "Self-Assessment scheme was introduced. • Before 1965, an assessment officer was assessed the income and determined the tax liability of the person.

Promulgation of the Income Tax Ordinance, 1979:

Between 1922 and 1979 as many as 71 amendment acts were passed by the legislature. As a result of these amendments the Act became a complicated law and difficulties arose in its working. Keeping these difficulties in view, the government promulgated a new tax law namely "Income Tax Ordinance, 1979" through finance ordinance June 28, 1979 and included all the basic concepts of the repealed Act, so that the benefits of the whole case laws built over the last 57 years are not rendered useless. The Ordinance replaced the Income Tax Act 1922 and was enforced effective from 1st July 1979.

Formation of National Tax Reform Commission:

In 1985, the Federal Government formed a National Tax Reform Commission consisting of members of Senate and National Assembly, high government officials and renowned industrialist. In 1985, the government set up a National Tax Reforms Commission to suggest ways and means to improve the existing tax structure in the country.

Income tax survey 1999-2000:

Under income tax ordinance 1979 the income tax survey was conducted in 1999-2000. Purpose of the survey was to critically review prevailing taxation structure and submit recommendations to revamp the taxation system in accordance with the international standards.

Introduction of Tax Amnesty Scheme:

Many tax amnesty schemes were introduced under the Income Tax Ordinance, 1979. These schemes were introduced to provide a chance to black money holders, so that they can change their black money into white money. Latest scheme was introduced in the year 2002.

Promulgation of income tax ordinance, 2001:

After 22 years of the promulgation of the Income Tax Ordinance, 2001, there was continuous criticism from the major foreign donors IMF and World Bank that the existing Income Tax laws of the country are not aligned with the international standards. The Government of Pakistan on the dictation of IMF introduced a new income tax law namely, "The Income Tax Ordinance, 2001" as a precondition of the loan program with IMF. The Ordinance was promulgated on September 13, 2001 by the Government of General Pervez Musharraf. It was published in the Extraordinary Gazette of Pakistan at pages bearing Nos. 969 to 1217. The Income Tax Ordinance, 2001: overrides other laws enforceable in Pakistan.

The Federal Government, vide its notification No. S.R.O. 381 (1)/ 2002, dated 15th June, 2002, announced that the Income Tax Ordinance, 2001 shall come into force on the first day of July, 2002.

Income Tax Rules 2002:

The FBR under the authority of section 237 of the Income Tax Ordinance, 2001 made the Income Tax rules, 2002. These rules were published on July 1, 2002 in Extraordinary Gazette of Pakistan at pages 1819 to 1966. The new Income Tax Ordinance which was written by an Australian Law practitioner and Assistant Professor Mr. Lee Burns there have been so many criticism from different quarters of Government, legal and professional experts, court of laws including the Supreme Court of Pakistan for the poor drafting and typographical errors, inconsistencies and conceptual fallacies & contradictions dichotomies. More than 2000 amendments so far have been made since inception.

Ajmal Khan

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ACME OF THE MONTH

TAX BRIEFING ON FINANCE SUPPLEMENTARY (SECOND AMENDMENT) BILL, 2019

Khilji & Co (Chartered Accountants) is pleased to present this tax briefing, which is primarily aimed to help in understanding the impact of the changes that are brought about by Finance Supplementary (Second Amendment) Bill, 2019 relating to Income Tax, Sales Tax Laws, Federal Excise Duty and Customs Duty. We understand that the approval from National Assembly and the assent of President is still awaited. It is suggested that changes should not generally be acted upon without first obtaining appropriate professional advice.

<https://khilji.net.pk/wp-content/uploads/2019/01/Second-Amendment-Bill-Commentary-Jan-2019-1.pdf>