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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE

Islamabad, the 27th December, 2019

No. F. 2(1)/2019-pub.—The following Ordinance promulgated on 26th December, 2019 by the President is hereby published for general information:—

ORDINANCE NO. XXVI OF 2019

AN

ORDINANCE

further to amend certain tax laws

WHEREAS it is expedient further to amend certain tax laws for the purposes hereinafter appearing;

AND WHEREAS, the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

(763)

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[2033(2019)/Ex. Gaz.]

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance shall be called the Tax Laws (Second Amendment) Ordinance, 2019.

(2) It shall come into force at once.

2. **Amendments in the Customs Act, 1969 (IV of 1969).**—In the Customs Act, 1969 (IV of 1969), the following further amendments shall be made, namely:—

(1) after section 3CC, the following new section shall be inserted, namely:—

“3CCA. **Directorate General of Law and Prosecution.**— The Directorate General of Law and Prosecution shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Special Public Prosecutors and such other officers as Board may, by notification in the official Gazette, appoint.”;

(2) in section 6, in sub-section (1), after the word “Banks”, the expression “in accordance with the legal framework notified by the Board” shall be inserted;

(3) in section 7, after full stop at the end, the expression “The provision of assistance so requested shall be binding.”, shall be added;

(4) in section 139, the existing provision thereof shall be re-numbered as sub-section (1) thereof and after the proviso to the re-numbered sub-section (1), the following new sub-section shall be added, namely:—

“(2) In case of recovery or seizure subsequent to false declaration or failure to declare under sub-section (1) of the items notified under clause(s) of section 2, offence shall be treated at par with clause(s) of section 2.”;

(5) in section 156, in sub-section (1), in the Table, in column zero,—

- (a) in serial 8, after sub-serial (ii) and entries relating thereto in columns (1), (2) and (3), the following new serials shall be inserted, namely:—

“(iii)	if the smuggled or prohibited goods comprise currency of all types.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to;	General
	(a) if the amount of the currency over and above the permissible limit is upto US dollars 10,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding the value of the excess amount of the currency;	
	(b) if the amount of the currency over and above the permissible limit is US dollars 10,001/- to 20,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding two times the value of the excess amount of the currency;	
	(c) if the amount of the currency over and above the permissible limit is US dollars 20,001/- to 50,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years;	
	(d) if the amount of the currency over and above the permissible limit is US dollars 50,001/- to 100,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding four times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding seven years;	
	(e) if the amount of the currency over and above the permissible limit is US dollars 100,001/- to 200,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding five times the value of the currency; and upon conviction by a Special Judge he shall further be liable to	

		imprisonment for a term not exceeding ten years: Provided further that the sentence of the imprisonment shall not be less than three years.	
	(f) if the amount of the currency over and above the permissible limit exceeds US dollars 200,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years: Provided further that the sentence of the imprisonment shall not be less than five years.	
(iv)	If the smuggled/prohibited goods comprise of gold, silver, platinum or precious stones in any form;	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to;	General
	(a) if the quantity of such goods is up to 15 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding the value of the goods;	
	(b) if the quantity of such goods is from 16-30 tola gold or equivalent in value (silver or platinum) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding two times the value of the currency;	
	(c) if the quantity of such goods is from 31-50 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding one year;	
	(d) if the quantity of such goods is from 51-100 tola gold	such goods shall be liable to confiscation and any person	

	or equivalent in value (silver or platinum) etc.	concerned in the offence shall be liable to a penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years;	
	(e) if the quantity of such goods is from 101-200 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding four times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years;	
	(f) if the quantity of such goods is from 201-500 tola gold or equivalent in value (silver or platinum) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding five times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years: Provided further that the sentence of the imprisonment shall not be less than three years.	
	(g) if the quantity of such goods exceeds 500 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years: Provided further that the sentence of the imprisonment shall not be less than five years.”;	

- (b) against serial 47A, in entry related thereto in column (2), in the proviso, for the full stop at the end, a colon shall be substituted and thereafter the following second proviso shall be added, namely:—

“Provided further that the aforesaid penalty shall not apply in cases where goods are imported or received as gift by individuals without NTN or STRN through courier or air cargo, diplomatic cargo and imports made by the Federal Government or Provincial Government or Local Government.”; and

- (c) for serial 70 and entries relating thereto in column (1), (2) and (3), the following shall be substituted, namely:—

"70		if the owner of any baggage fails to declare or makes a false declaration with respect to his baggage or refuses to answer any questions put to him by the appropriate officer with respect to his baggage or any of its contents including articles carried with him or fails to produce baggage or any such article for examination, and if such goods are:		
	(i)	Other than currency, gold, silver & platinum and precious stones in any form	Such owner shall be liable to a penalty not exceeding three times the value of the goods; and such goods shall also be liable to confiscation.	139 (1)
	(ii)	Currency of all types.		139(2)
		(a) if the amount of the currency over and above the permissible limit is upto US dollars 10,000/- or equivalent in value (currency of other denomination) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding the value of the excess amount of the currency;	
		(b) if the amount of the currency over and above the permissible	such currency shall be liable to confiscation and any person concerned in	

	<p>limit is US dollars 10,001/- to 20,000/- or equivalent in value (currency of other denomination) etc.</p>	<p>the offence shall be liable to a penalty not exceeding two times the value of the excess amount of the currency;</p>	
	<p>(c) if the amount of the currency over and above the permissible limit is US dollars 20,001/- to 50,000/- or equivalent in value (currency of other denomination) etc.</p>	<p>such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years;</p>	
	<p>(d) if the amount of the currency over and above the permissible limit is US dollars 50,001/- to 100,000/- or equivalent in value (currency of other denomination) etc.</p>	<p>such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding four times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding seven years;</p>	
	<p>(e) if the amount of the currency over and above the permissible limit is US dollars 100,001/- to 200,000/- or equivalent in value (currency of other denomination) etc.</p>	<p>Such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding five times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years:</p> <p>Provided further that the sentence of the imprisonment shall not be less than three years.</p>	
	<p>(f) if the amount of the currency over and above the permissible</p>	<p>such currency shall be liable to confiscation and any person concerned in</p>	

	limit exceeds US dollars 200,000/- or equivalent in value (currency of other denomination) etc.	the offence shall be liable to a penalty not exceeding ten times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years: Provided further that the sentence of the imprisonment shall not be less than five years.	
(iii)	gold, silver, platinum and precious stones in any form;		139(2)
	(a) if the quantity of such goods is up to 15 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding the value of the goods;	
	(b) if the quantity of such goods is from 16-30 tola gold or equivalent in value (silver or platinum) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding two times the value of the currency;	
	(c) if the quantity of such goods is from 31-50 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding one year;	
	(d) if the quantity of such goods is from 51-100 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding three times the value of the goods; and upon	

			conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years;	
		(e) if the quantity of such goods is from 101-200 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding four times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years;	
		(f) if the quantity of such goods is from 201-500 tola gold or equivalent in value (silver or platinum) etc.	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding five times the value of the currency; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years: Provided further that the sentence of the imprisonment shall not be less than three years.	
		(g) if the quantity of such goods exceeds 500 tola gold or equivalent in value (silver or platinum) etc.	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years: Provided further that the sentence of the imprisonment shall not be less than five years.	

- (6) in section 164, after sub-section (2), the following new sub-section shall be added, namely:—

“(3) For the execution of the above, the officers or officials shall be empowered to use all necessary force including use of firearms subject to section 97 of the Pakistan Penal Code, 1860 (Act XLV of 1860) in the line of duty.”;

- (7) in section 169, in sub-section (4), for the full stop at the end, a colon shall be substituted and thereafter the following provisos shall be added, namely:—

“Provided that where the seized goods liable to confiscation are produced during any inquiry or trial before the court of Special Judge Customs and if such goods are subject to speedy or natural decay, the court may on an application after recording evidence, as it thinks necessary, order the goods to be sold or otherwise dispose of in terms of this section:

Provided further that if the property is a dangerous drug, intoxicant, intoxicating liquor or any other narcotic or psychotropic substance seized or taken into custody, the Court may, either on an application or of its own motion and under its supervision and control, obtain and prepare such number of samples of the property as it may deem fit for safe custody and production before it or any other court and cause destruction of the remaining portion of the property under a certificate issued by it in that behalf:

Provided also that such samples shall be deemed to be whole of the property in an inquiry or proceedings in relation to such offence before any authority or court.”;

- (8) in section 185A, in sub-section (2), for full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that such cases shall be disposed of within six months of the receipt of report or within such extended period as the Special Judge may, for reasons to be recorded in writing, fix.”;

- (9) for section 194, the following shall be substituted, namely:—

“194. **Appellate Tribunal.**—(1) There shall be established an Appellate Tribunal to be called the Customs Appellate Tribunal to exercise the powers and perform the functions conferred on the Customs Appellate Tribunal by this Act.

- (2) The Customs Appellate Tribunal shall consist of a chairman and such other judicial and technical members who shall be appointed in such numbers and in such manner as the Prime Minister may prescribe by rules, which may be made and shall take effect notwithstanding anything contained in section 219 or any other law or rules for the time being in force.
 - (3) No person shall be appointed as judicial member of a Customs Appellate Tribunal unless he—
 - (a) has been a Judge of a High Court;
 - (b) is or has been a District Judge; or
 - (c) is an advocate of a High Court with a standing of not less than ten years; or
 - (d) possesses such other qualification as may be prescribed under sub-section (2) of this section.
 - (4) No person shall be appointed as a technical member of a Customs Appellate Tribunal unless he—
 - (a) is an officer of the Pakistan Customs Service equivalent in rank to that of member of the Board or Chief Collector of Customs or Director General; or
 - (b) is a Collector or Director or Chief of the Board having not less than three years experience in that position.
 - (5) The constitution, functioning of benches and procedure of the Customs Appellate Tribunal shall be regulated by rules which the Prime Minister may prescribe.
 - (6) The rules in respect of the matters covered under this section made prior to commencement of the Tax Laws (Second Amendment) Ordinance, 2019 shall continue in force unless amended or repealed.”;
- (10) in section 196, in sub-section (5), for full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that the reference filed under sub-section (1) shall be decided within six months of filing the application or within such extended period as the High Court may, for reasons to be recorded in writing, fix.”.

3. **Amendments in the Sales Tax Act, 1990.**—In the Sales Tax Act, 1990, the following further amendments shall be made, namely:—

(1) in section 2,—

(a) after clause (12), the following new clause shall be inserted, namely:—

“(12A) “greenfield industry”, in relation to the entry at serial number 150 of the Table-1 of the Sixth Schedule, means—

(a) a new industrial undertaking which is—

(i) setup on land which has not previously been utilized for any commercial, industrial or manufacturing activity and is free from constraints imposed by any prior work;

(ii) built without demolishing, revamping, renovating, upgrading, remodeling or modifying any existing structure, facility or plant;

(iii) not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant or building from an undertaking established in Pakistan prior to commencement of the new business and is not part of an expansion project;

(iv) using any process or technology that has not earlier been used in Pakistan and is so approved by the Engineering Development Board; and

(b) is approved by the Commissioner on an application made in the prescribed form and manner, accompanied by the prescribed documents and, such other documents as may be required by the Commissioner:

Provided that this definition shall be applicable from the 1st July, 2019 and onwards.”.

(b) in clause (43A),—

- (i) for the expression “Tier-1 retailers means,—”, the expression “**“Tier-1 retailer”** means a retailer falling in any one or more of the following categories, namely:—” shall be substituted;
- (ii) in sub-clause (c), for the word “six”, the word “twelve” shall be substituted;
- (iii) in sub-clause (d), the word “and” at the end shall be omitted; and
- (iv) in sub-clause (e), for the full stop at the end, the expression “; and” shall be substituted and thereafter the following new sub-clause shall be added, namely:—

“(f) any other person or class of persons as prescribed by the Board.”.

(2) in section 33, in the Table, in column (1), after serial 23 and entries relating thereto in columns (2) and (3), the following new serial numbers and entries relating thereto shall be added, namely:—

<p>“24. Any person, who is integrated for monitoring, tracking, reporting or recording of sales, production and similar business transactions with the Board or its computerized system, conducts such transactions in a manner so as to avoid monitoring, tracking, reporting or recording of such transactions, or issues an invoice which does not carry the prescribed invoice number or barcode or bears duplicate invoice number or counterfeit barcode, or any person who abets commissioning of such offence.</p>	<p>Such person shall pay a penalty of five hundred thousand rupees or two hundred per cent of the amount of tax involved, whichever is higher. He shall, further be liable, upon conviction by a Special Judge, to simple imprisonment for a term which may extend to two years, or with additional fine which may extend to two million rupees, or with both.</p> <p>Any person who abets commissioning of such offence, shall be liable, upon conviction by a Special Judge, to simple imprisonment for a term which may extend to one year, or with additional fine which may extend to two hundred thousand rupees, or with both.</p>	<p>sub-section (9A) of section 3 and section 40C.</p>
<p>25. Any person, who is required to integrate his business for monitoring, tracking, reporting or recording of sales, production and similar business transactions with the Board or its computerized system, fails to get himself registered under the Act, and if registered, fails to integrate in the manner as required under law.</p>	<p>Such person shall be liable to pay a penalty up to one million rupees, and if continues to commit the same offence after a period of six months after imposition of penalty as aforesaid, his business premises shall be sealed and an embargo shall be placed on his sales.</p>	<p>sub-section (9A) of section 3 and section 40C.</p>

