

SUNDAY AUGUST 07: Big controversy arises over ST collection by provinces

ISLAMABAD (August 08, 2011) : A major tax controversy has emerged between the Federal Board of Revenue (FBR) and the provinces as the FBR has not yet withdrawn federal excise duty on services on which provincial sales tax is being charged presently. It is learnt that the taxpayers are totally confused on application of sales tax or FED in value-added tax (VAT) mode on services. The new situation emerged due to duplication in tax levy on services sector, which as created serious confusion for the taxpayers, who are not clear about the tax compliance jurisdiction. The due date of filing their sales tax or excise return for the tax period of July is August 15, 2011 and yet registered persons have no clue whether they would continue to file sales tax returns with the FBR as per past practice or file return with the provincial government of Sindh, which has implemented the Provincial Sales Tax Act 2010. When contacted, a senior FBR official said that the FBR had discussed the issues relating to the sales tax on services a few days back in a meeting between the FBR and the Sindh Revenue Board (SRB) at the FBR Headquarters. The FBR heard the viewpoint of the SRB and all issues would soon be resolved. A notification has also been vetted by the Law and Justice Division. Both sides also discussed the issue of filing of sales tax returns for the tax period of July 2011 to be submitted in August 2011. The officials of the SRB also informed the FBR to resolve issues relating to the sales tax on services at the

earliest to avoid complications for the registered taxpayers. During the meeting, it was also discussed that a standard rate of sales tax would be applicable on telecom services for which Punjab and Khyber Pukhtunkhwa (KP) have to amend their respective Ordinances for applicability of a uniform rate of sales tax. When asked why the FBR has not abolished the FED on services, sources said that the FBR wanted to take all the provinces on board. The notification has been finalised, which would be issued in consultation with all four provinces to avoid any sort of confusion. Presently, the notification is on hold and yet not issued by the FBR. However, it is expected that issues would be resolved next week, the official added. Experts said that the FBR has not yet withdrawn levy in VAT mode, federal excise duty on services. At the same time Sindh government had also passed Bill for collection of sales tax on series by virtue of 18th amendment. Legally, at present sales tax as well as the FED in VAT mode is applicable on certain specified services, which has complicated the whole situation. The legal status shows that how both FBR and Sindh government could simultaneously collect sales tax or the FED on services. The FBR has not amended the Federal Excise Act 2005 to exclude the services from the domain of federal government or issued any notification to-date. According to sources, the FBR has to withdraw the FED on excisable services to avoid duplication of taxes on the services providers. Even if the draft notification has been finalised by the FBR, the delay in the issuance of the notification by the FBR has created total confusion among the business and trade. Presently, registered persons are liable to pay sales tax as well as the FED on the excisable services. Due to delay in the issuance of the notification by the FBR,

taxpayers have no idea that how they would further proceed to file sales tax return with the FBR or the provincial government, the situation reflects complete lack of co-ordination between federal and provincial governments. In a recent meeting of the FBR it was also observed by the higher authorities that the revenue collection target of current fiscal (2011-2012), which is Rs 1952 billion also includes portion of revenue collection from tax on service sector. Since the revenue collection target of Rs 1952 billion has also incorporated the excise duty from services their might be a need to revisit the target following withdrawal of the FED on services sector as per Federal Excise Act 2005. Sources said that different modalities on collection of sales tax from services sector are under consideration of the FBR which are expected to be shared with the provinces next week. The issue of inter-provincial input output adjustments also needs to be addressed in the sales tax returns. The FBR has also drafted notification on behalf of provinces which are expected to be shared with the provinces next week. Sources said that the Sindh Government has passed the bill effective from July 1, 2011 for collection of sales tax on services. With the passage of 18th Amendment, collection of FED on services has become the right of provinces and the Federal Government has to withdraw itself from collection of FED. However, the FBR has not issued any notification in this regard despite passage of over a month. It has been reported that Sindh Chief Minister Qaim Ali Shah has sought Prime Minister's intervention to resolve the matter. The letter says that the FBR has announced publicly withdrawal from collection of FED on services but it has not issued any notification as yet. The letter stated that laws enacted regarding provincial issues need to be given due

consideration and honour by the Centre and collection of FED by the FBR is contrary to the legislation of provinces. Prime Minister should intervene to resolve the matter and direct federal government/FBR to immediately withdraw from the collection of FED on services to remove state of double taxation in violation of constitutional legal rights of provinces, letter added. The sales tax on services is presently collected by FBR under the head of excise duty in sales tax mode. The FBR though has issued press release on July 6, 2011 that existing taxpayers may continue same practice as they follow and board will issue proper notification in due course of time to define appropriate modus operandi. Since both government authorities can not collect sales tax on services at the same time. The controversy for collection and jurisdiction will continue, experts added.

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