



Imports; Manufacturers can apply only for ‘Lower Rate Certificate’

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A major change has been brought this June, in the income tax on imports whereby thousands of items and articles which are imported in Pakistan, were enlisted in a Schedule, divided into its three (03) different parts. The three different parts were supposedly meant for three different categories of imports with three different rates as follows;

Part I	Capital Goods	1%
Part II	Raw Materials	2%
Part III	Finished Goods	5.5%

2- The change may have been brought in with all the good intentions but fell just short to achieve its purpose as it was immediately followed by innumerable complains by the manufacturers across the country that the item of import which consist of their raw material is not found in any of the 03 Parts of the Schedule. Needless to mention that these manufacturers have already been deprived of their bonafide entitlement of exemption on imports after this change and have now ended up in finding that they have to pay 5.5% income tax on their imports, because of the fact that list maker missed to enlist their item of imports.

3- In addition to the above, another glaring discrepancy which cropped up remains that the article or items of import being appropriately covered in the wrong part of the Schedule.

4- In response to hue and cry of the business community, a SRO 715(I)/2020 dated August.12.2020 has been notified to follow a mechanism to address the grievance of the manufacturer.

5- IMPORT COMMITTEE;

- i) A Committee has been made at FBR level which will work in the FBR House, Islamabad. The Committee members will be:
 - Member Policy – Chairperson
 - Member Operation – Member
 - Member Audit - Member
- ii) The Secretary of the above high-powered Committee will be the Chief Income Tax Policy.
- iii) An application will have to be submitted to the Committee for the purpose.
- iv) The Chairperson will convene a meeting of the Committee to discuss the application.
- v) Sixty (60) days of time period has been given to the Committee to decide the application.
- vi) The decision of the import Committee over the application will communicated through a formal notification/SRO.

6- After going through the above given mechanism one can be seriously apprehensive of the rigmarole, one has to go through for getting the job done at the FBR level. Hence the Bureaucratic abyss inhere to the given procedure provides a natural deterrence to any bonafide taxpayer to pursue his case.

7- Critical to this new categorization of imports into 3 parts is the absence of the relevance of purpose/intent of the import. It goes without saying that a commercial importer, which has been importing a particular item/article and has been paying 5.5% income tax earlier, would never come forward with a complain, in case he finds that his item of import, say, steam turbine is now listed in the Part-I, which is for capital goods and tax rate is only 1%. Hence the whole superstructure which attempts to list hundreds of thousands of goods/items/articles of import into a mere schedule and that too in presence of Custom tariff Codes, is inherently flawed.

8- It would therefore be unnatural to presume that FBR with its one single Committee on this subject would take note of this flaw in each and every case of importer, until and unless the reference to the status and profile of importer, as to whether he is a manufacturer or factually a commercial importer, is made.

9- ALTERNATIVES TO PROCEDURE FOR AMENDMENT;

A. Exemption restored for certain importers;

- i) Exemption from tax on imports has been restored for taxpayer who;
 - a) is exempt from tax
 - b) is subject to 100% tax credit under Section 100C of the Ordinance;
 - c) has previously imported similar goods and has not supplied to his related party or any other party in a non-arm's length transaction.
- ii) The taxpayer has to submit an application, to the Commissioner for exemption
- iii) Till the time IRIS is enabled the exemption application be submitted manually with the required documents and data.
- iv) The Commissioner will approve or reject the application within 15 days of receipt of application.
- v) It has not been mentioned as to whether advance payment of the whole year income tax liability has to be paid or not, like it used to be earlier, when Clause 72B existed.
- vi) It has not been mentioned as to whether exemption certificate would be granted for whole of the year or half year or merely a quarter.

B. Lower Rate Certificate to Manufacturers;

- i) Manufacturers who do find their raw material in either Part I or Part II may alternatively submit an application to the Commissioner.
- ii) The taxpayer can submit the application manually, till the time IRIS is enabled for this purpose, duly supported by the required documents and data.
- iii) The Commissioner shall calculate the quantity of raw material to be allowed to be imported at reduced rate, which is based on last year import, current availability of that raw material in the stock and the variation in current year turnover.
- iv) The Commissioner will approve or reject the application within 15 days of receipt of application.

- v) All orders, by the Commissioner, however, shall be reviewed by the Review Committee, comprising of the same three Import Committee members.
- vi) It has not been mentioned as to whether advance payment of the whole year income tax liability has to be paid or not, like it used to be earlier, when Clause 72B existed.
- vii) It has not been mentioned as to whether the reduced rate certificate would be granted for whole of the year or half year or merely a quarter.

10- DETAILS TO BE GIVEN;

Surprisingly a long and tedious list of details and supporting documents has been asked for from the manufacturer who opts for reduced rate certificate. This following documents are to be provided to the Commissioner;

- i) Site plan of the Factory
- ii) Details of the total area, manufacturing area, storage area and wastage area
- iii) Details of the machinery installed
- iv) Details on per day Production Capacity
- v) Details on per day average production in the last two (02) tax years
- vi) Process flow of manufacturing where local raw and imported material are consumed
- vii) Process flow of the stage where finished goods are manufactured
- viii) Inventory statement, consumption statement and input-output ratios of last assess tax year
- ix) An estimate of advance income tax payment.

11- FREE ACCESS TO COMMISSIONER;

On the top of it, the Commissioner will get a free ticket to enter and search the office and the factory premises for inspection of stocks, records, accounts, correspondence, production capacity etc. etc.

12- TAX AUDIT OF CONSUMPTION AND PRODUCTION;

Lastly, it appears that as if the offence of applying for reduction was not sufficiently punished, the Commissioner has once again been empowered to audit the consumption, production and sales of the last tax year as was contained in the erstwhile Clause 72B of the Part IV of the Second Schedule to the Ordinance.

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