



1<sup>st</sup> April, 2014

Mr. Tariq Bajwa,  
Chairman,  
Federal Board of Revenue,  
Government of Pakistan,  
Islamabad.

Sub: Amendment to Sales Tax Act, 1990.

Dear Sir,

Transparency International Pakistan refers to an allegation made in the news article dated 31<sup>st</sup> March, 2014 regarding unconstitutional provision of over-ruling Supreme Court orders/ judgments, in the new law, enacted through Presidential member (IV) of 2014 of the Sales Tax Act 2014.

The allegations are quoted below;

1. *"Through Presidential Ordinance No. IV of 2014, sub-section (2) in section 3B of the Sales Tax Act has been changed to:*

*"Notwithstanding anything contained in any law or judgment of the court including Superior Courts, any amount payable to the Federal Government under sub-Section (1) shall be deemed to be an arrear of tax or charge payable under this act and shall be recoverable accordingly and any claim for refund in respect of such amount shall neither be admissible to the registered person nor payable to any court of law or to any person under direction of the court."*

2. *One wonders whether the subject Ordinance has been issued after vetting by a legal mind.*
3. *Notwithstanding the words with reference to superior courts in the above law, jurisdiction of the superior courts can not be barred through such unlawful phraseology. A superior court can always declare such 'barring' to be unconstitutional and hence nullity.*
4. *What may happen with such law is that the big cats will have business as usual, because of their capacity to engage high profile lawyers and charming consultants, while the small men, not able to get away from the yoke, will badly suffer, some even getting out of the business.*

The Chairman is requested to examine whether such ordinance has been issued, and was it properly vetted by the Ministry of Law, as prima facie this is a defective law.

In case the allegations are correct, the Chairman is requested to immediately rectify the above orders, by deleting illegal provisions.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.



With Regards,

Sohail Muzaffar  
Chairman

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad.
3. Chairman, PAC, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPRA, Islamabad.

## LETTERS

### Amendment to Sales Tax Act, 1990

Through Presidential Ordinance No. IV of 2014, subsection (2) in section 3B of the Sales Tax Act has been changed to:

“(2) Notwithstanding anything contained in any law or judgment of the court including Superior Courts, any amount

payable to the Federal Government under sub-Section (1) shall be deemed to be an arrear of tax or charge payable under this act and shall be recoverable accordingly and any claim for refund in respect of such amount shall neither be admissible to the registered person nor payable to any court of law or to any person under direction of the court.”

One wonders whether the subject Ordinance has been issued after vetting by a legal

mind.

Notwithstanding the words with reference to superior courts in the above law, jurisdiction of the superior courts can not be barred through such unlawful phraseology. A superior court can always declare such ‘bar-ring’ to be unconstitutional and hence nullity.

General public keeps groaning with tax officials’ atrocities through misinterpretations and misapplication of the otherwise valid laws. What would happen

if these tax officials are armed with weapons like this to indiscriminately shoot at the public and get away with no relief available to the injured?

What may happen with such law is that the big cats will have business as usual, because of their capacity to engage high profile lawyers and charming consultants, while the small men, not able to get away from the yoke, will badly suffer, some even getting out of business.

Karachi

Pro bono publico