



24<sup>th</sup> September 2012

Mr. Ali Arshad Hakeem,  
Chairman,  
Federal Board of Revenue,  
Government of Pakistan,  
Islamabad.

**MOST URGENT**

**Sub:Recovery of over Rs 12 Billion from contactors for illegal GST refund/exemptions paid to them by FBR by misusing rule of Zero Sales Tax for International Tendered Contracts.**  
**1<sup>st</sup> Reminder**

Dear Sir,

Transparency International Pakistan on 7<sup>th</sup> September 2012 requested FBR to take immediate action for the recovery of **over Rs 12 Billion** from contactors for illegal GST refund/exemptions paid to them by FBR by misusing rule of Zero Sales Tax for International Tendered Contracts, , but no action has been taken in this respect.

TIP has been trying since last one year to apprise the Chairman FBR that GST Zero Sales Tax for Contractors of International Tendered Contracts is applicable on Supplies only, and not on constructed structures built by contractors for client.

TIP requests dated 20 Nov. 2011 was not accepted by the then Chairman FBR Mr. Salman Siddique. Another reminder was sent to Mr. Salman Siddique on 30/11/2011, but no action on this serious violation of law was taken by him. Second reminder was sent to Mr. Salman Siddique on 9/12/2011, but again no action to address the violation was taken by FBR. Then Mr. Mukhtar Rizvi took over as Chairman FBR, and he also did not take any action on TIP requests of misuse of GST Zero Sales Tax for Contractors of International Tendered Contracts.

However, Directorate of Intelligence and Investigation, Inland Revenue (IR) Karachi took notice of TIP Complaint and found KPT contractor guilty for misuse of Sales Tax Act which caused a loss to exchequer of over Rs 350 million till 2011, and the contravention report was sent to the Commissioner Inland Revenue Karachi on 7<sup>th</sup> May 2012 for adjudication.

But the adjudication process in Commissioner Inland Revenue Karachi was very slow, and they did not act efficiently to adjudicate this case. Meanwhile NAB intervened and ordered Commissioner Inland Revenue Karachi on 9<sup>th</sup> July 2012 to stop further proceeding of the case and handover the records to NAB.

TIP is grateful for your personal intervention at the right time on 24<sup>th</sup> August 2012, when you ordered the Commissioner Inland Revenue Karachi to proceed with the adjudications and inform NAB, as otherwise the case would have become time barred, as the adjudication was to be completed within 120 days i.e . 5 September 2012. NAB also withdrew its earlier instructions, and ordered FBR to proceed with the adjudication proceedings and send the adjudication order to NAB.

The Additional Commission Inland Revenue Karachi adjudicated the case, on 28th August 2012, and passed the following Judgment;





**Quote**

*"On the basis of the above considerations, the undersigned has finally arrived at the conclusion that the registered person was involved in the construction of an immoveable infrastructure project which is excluded from the definition of goods. Thus, all sales tax refund and zero-rated purchases availed by the registered person are inadmissible. Further, it is clear that they had passed on the incidence of sales tax on imported goods, but concealed from the buyer that they had availed exemption at the import stage. Thus, they have contravened the provisions of sections 3, 3B, 6(2), 7, 8(1)(a), 8A, 23, 26 and 73 of the Sales Tax and the entire amount of sales tax not paid/short paid/ erroneously recovered is assessable u/s 11(2) and recoverable u/s 36(1) of the Sales Tax Act, 1990. Hence total amount of sales tax of Rs. 351,684,309/- is recoverable from the registered person under the said provisions, along with default surcharge (to be calculated at the time of payment) under section 34 of Sales Tax Act, 1990. Penalty of 100% of the amount of tax involved is also imposed in terms of S. No. 13 of the Table to section 33 ibid. as the actions of the registered person in this regard are clearly deliberate and malafide"*


**Unquote**

This is a high profile case of tax evasion by contractors in connivance with few officers of FBR, and has been committing since 1990 ( 24 Years).

Transparency International Pakistan request the Chairman FBR to urgently take up this case, which has been persuaded by Transparency International Pakistan since last one year, and open all cases of ST/GST exemptions availed or refunds made by mis-use of GST Zero Sales Tax for International Tendered Contracts , and recover estimated amount of Rs 12 Billion from all those defaulters of law. The officers involved in these collusion should also be taken to task as per rules and provisions of NAO 1999 for corrupt practices. .

Transparency International Pakistan is striving to have transparency in procedures and Rule of Law in Pakistan, which is the only way to eliminate corruption and have good governance in country.

With Regards,

  
Syed Adil Gilani  
Adviser

Copies forwarded for the information with request to take action under the authority vested in their respective jurisdictions, as this is a serious case of Tax evasion and has been proved after serious efforts of Transparency International Pakistan,

1. Chairman, Public Accounts Committee, Islamabad.
2. Federal Tax Ombudsman, Islamabad,
3. Chairman, NAB, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.



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SINDH

GOVERNMENT OF PAKISTAN  
NATIONAL ACCOUNTABILITY BUREAU (SINDH)  
PRCS BUILDING 197/5, DR DAUDPOTA ROAD  
KARACHI CANTONMENT

TEL: 021-01297841  
FAX: 021-01237812

2173/13/W-2/CO-E/F-20/NA5 (Sindh) /2012/ 2205  
09 July 2012

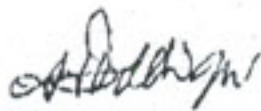
To: Chief Commissioner  
Regional Tax Office-II  
Inland Revenue Services  
Income Tax Building, Shahra-e-Kamal Ataturk  
Karachi

Subject: Inquiry against Officers/Officials of FBR/BOI, M/s Saangyong & Usmani Joint Venture and Others in Reconstruction of Berths 10-14 on East Wharves, Karachi.

1. An inquiry has been authorized by competent authority into the offence reported to have been committed under section 9(a) of National Accountability Ordinance 1999, against subject person and others.

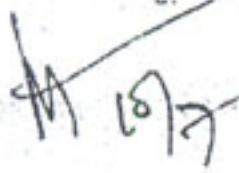
2. Reportedly the subject case is being forwarded to adjudicated branch. Since this Bureau has taken cognizance of the case under section 18 (c) of National Accountability Ordinance 1999, you are required to stop further proceeding of subject case immediately and detail an officer for handing over the record to this Bureau, at the earliest.

3. This issue under the provision of section 18(d) of National Accountability Ordinance, 1999.

  
Additional Director (Staff)  
For Director General  
(Abdul Hafeez Siddiqui)

Copy to:-

1. Chairman Federal Board of Revenue (FBR) Islamabad
2. Director General I & I, Inland Revenue Service Islamabad



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