

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

**A
BILL**

further to amend certain tax laws

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

It is hereby enacted as follows:-

1. Short title and commencement. – (1) This Act shall be called the Tax Laws (Amendment) Act, 2024.

(2) It shall, unless specified otherwise, come into force at once.

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

(a) after section 30DDD, the following new section shall be inserted, namely:-

“30DDDA. Directorate-General of law.- (1) The Directorate-General of law shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Law Officers and such other officers as the Board may, by notification in the official Gazette, appoint.

(2) The Board may, by notification in the official Gazette, specify the functions, jurisdiction and powers of the Directorate-General of law.”;

(b) after the omitted section 43, the following new section shall be inserted, namely:-

“43A. Pecuniary jurisdiction in appeals.— (1) Subject to other provisions of this Act,-

(a) an appeal to the Commissioner (Appeals) shall lie where the value of assessment of tax or, as the case may be, refund of tax does not exceed ten million rupees; or

(b) an appeal to the Appellate Tribunal Inland Revenue shall lie where the value of assessment of tax or, as the case may be, refund of tax exceeds ten million rupees.

(2) The cases pending before the Commissioner (Appeals) having the value of assessment of tax or, as the case may be, refund of tax exceeding ten million rupees shall on and from the 16th day of June, 2024 stand transferred to the Appellate Tribunal Inland Revenue.

(3) All cases transferred from the Commissioner (Appeals) to the Appellate Tribunal under sub-section (2) shall be decided by the Appellate Tribunal within the period provided for under section 132 of the Income Tax Ordinance, 2001 (XLIX of 2001) which period shall commence from the 16th day of June, 2024.”;

(c) in section 45B, after the expression “order,”, the expression “if the value of the assessment or, as the case may be, refund of the tax does not exceed ten million rupees, shall be inserted;

(d) in section 46, –

(i) for sub-section (1), the following shall be substituted, namely: –

“(1) Any person, other than an SOE, aggrieved by any order passed by an Officer of Inland Revenue, the Board or Commissioner (Appeals) under this Act or the rules made there under may, within thirty days of the receipt of such order, prefer an appeal to the Appellate Tribunal:

Provided that where sub-section (11) of section 134A of Income Tax Ordinance, 2001(XLIX of 2001) shall apply, an SOE may prefer an appeal under this sub-section.; and

(ii) sub-section (2A) shall be omitted;

(e) for section 47, the following shall be substituted, namely,-

"47. Reference to the High Court.— (1) Within thirty days of the communication of the order of the Appellate Tribunal, the aggrieved person or the Commissioner may prefer an application, in the prescribed form along with a statement of the case and the complete record of the Appellate Tribunal to the High Court, stating any question of law arising out of such order.

(2) Provisions of section 133 of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder relating to a reference to the High Court shall, *mutatis mutandis*, apply to references to the High Court under this Act.;

(f) for section 47A, the following shall be substituted, namely:-

“47A. Alternative Dispute Resolution.-(1) Notwithstanding any other provision of this Act, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to-

- (a) the liability of tax of fifty million rupees or above against the aggrieved person or admissibility of refund, as the case may be;
 - (b) the extent of waiver of default surcharge and penalty; or
 - (c) any other specific relief required to resolve the dispute,
- may apply, except where criminal proceedings have been initiated, to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:

Provided that where the aggrieved person is a State-Owned Enterprise (SOE), the limit of tax liability of fifty million rupees or above mentioned in clause (a) shall not apply and it shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section:

Provided further that no suit, prosecution, or other legal proceedings shall lie against the SOE in relation to the dispute resolved under this section.

Explanation.— State-Owned Enterprise shall have the same meaning as assigned thereto in the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023).

(2) Provisions of section 134A of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder relating to Alternative Dispute Resolution shall, mutatis mutandis, apply to applications for alternative dispute resolution under this Act.”; and

(g) in section 48, in sub-section (1), in clause (f), in the proviso, after the expression “45B”, the expression “or, as the case may be, section 46” shall be inserted; and

3. Amendments in the Federal Excise Act, 2005.— In the Federal Excise Act, 2005, the following further amendments shall be made, namely:-

- (a) in section 29, in sub-section (2),-
 - (i) in clause (c), the words “and” occurring at the end shall be omitted; and
 - (ii) in clause (d), for the full stop at the end, a colon and the word “and” shall be substituted and thereafter the following new clause (e) shall be added, namely:-

“(e) the Directorate-General of law shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Law Officers and such other officers as the Board may, by notification in the Official Gazette, appoint and the Board shall, specify therein functions, jurisdiction and powers of each such officer of the Directorate-General of law.”;

- (b) in section 33, after the word “order”, occurring for the first time, the expression “if the value of the assessment or, as the case may be, refund of the tax does not exceed five million rupees,” shall be inserted;

(c) after section 33, the following new section shall be inserted, namely:-

"33A. Pecuniary Jurisdiction in appeals.- (1) Subject to other provisions of this Act,-

(a) an appeal to the Commissioner (Appeals) shall lie where the value of assessment of tax or, as the case may be, refund of tax does not exceed five million rupees; or

(b) an appeal to the Appellate Tribunal Inland Revenue shall lie where the value of assessment of tax or, as the case may be, refund of tax exceeds five million rupees.

(2) The cases pending before the Commissioner (Appeals) having the value of assessment of tax or, as the case may be, refund of tax exceeding five million rupees shall on and from the 16th day of June, 2024 stand transferred to the Appellate Tribunal Inland Revenue.

(3) All cases transferred from the Commissioner (Appeals) to the Appellate Tribunal under sub-section (2) shall be decided by the Appellate Tribunal within the period provided for under section 132 of the Income Tax Ordinance, 2001 (XLIX of 2001) which period shall commence from the 16th day of June, 2024.”;

(d) in section 34, for sub-section (1), the following shall be substituted, namely:-

“(1) Any person, other than a state-owned enterprise (SOE), aggrieved by any order passed by an officer of Inland Revenue, the Board or the Commissioner (Appeals) under this Act or the rules made thereunder may, within thirty days of the receipt of such order, prefer an appeal to the Appellate Tribunal:

Provided that where sub-section (11) of section 134A of Income Tax Ordinance, 2001(XLIX of 2001) shall apply, an SOE may prefer an appeal under this sub-section.”;

(e) for section 34A, the following shall be substituted, namely:-

"34A. Reference to the High Court.— (1) Within thirty days of the communication of the order of the Appellate Tribunal, the aggrieved person or the Commissioner may file a reference, in the prescribed form along with a statement of the case and complete record of the Appellate Tribunal, before the High Court, stating any question of law arising out of such order.

(2) Provisions of section 133 of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder relating to a reference to the High Court shall, *mutatis mutandis*, apply to references to the High Court under this Act.”; and

(f) for section 38, the following shall be substituted, namely,-

“38. Alternative dispute resolution.-(1) Notwithstanding any other provision of this Act, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to-

- (a) the liability of tax of fifty million rupees or above against the aggrieved person or admissibility of refund, as the case may be;
 - (b) the extent of waiver of default surcharge and penalty; or
 - (c) any other specific relief required to resolve the dispute,
- may apply, except where criminal proceedings have been initiated, to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:

Provided that where the aggrieved person is a State-Owned Enterprise (SOE), the limit of tax liability of fifty million rupees or above mentioned in clause (a) of sub-section (1) shall not apply and it shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section:

Provided further that no suit, prosecution, or other legal proceedings shall lie against the SOE in relation to the dispute resolved under this section.

Explanation.- State-Owned Enterprise shall have the same meaning as assigned thereto in the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023).

(2) Provisions of section 134A of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder relating to Alternative Dispute Resolution shall, *mutatis mutandis*, apply to applications for alternative dispute resolution under this Act.”.

4. Amendments of the Income Tax Ordinance, 2001 (Ordinance XLIX of 2001).

– In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:-

- (a) in section 122A, in sub-section (1), after the expression “Commissioner (Appeals)”, the expression “if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees,” shall be inserted;

(b) in section 124,

- (a) in sub-section (1), after the expressions "Commissioner (Appeals)," occurring twice, the expression " if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees," shall be inserted ;
- (b) in sub-section (2), after the expressions "or Commissioner (Appeals), as the case may be," wherever occurring, the expression " if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees," shall be inserted; and
- (c) in sub-section (6), after the expressions "Commissioner (Appeals)," the expression "if the value of the assessment or, as the case may be, refund of the tax does not exceed twenty million rupees," shall be inserted.;

(c) In Part III, before section 127, the following new section 126A shall be inserted, namely:-

"126A. Pecuniary jurisdiction in appeals.-(1) Subject to other provisions of this Act,-

- (c) an appeal to the Commissioner (Appeals) shall lie where the value of assessment of tax or, as the case may be, refund of tax does not exceed twenty million rupees; or
- (d) an appeal to the Appellate Tribunal Inland Revenue shall lie where the value of assessment of tax or, as the case may be, refund of tax exceeds twenty million rupees.

(2) The cases pending before the Commissioner (Appeals) having the value of assessment of tax or, as the case may be, refund of tax exceeding twenty million rupees shall on and from the 16th day of June, 2024 stand transferred to the Appellate Tribunal Inland Revenue.

(3) All cases transferred from the Commissioner (Appeals) to the Appellate Tribunal under sub-section (2) shall be decided by the Appellate Tribunal within the period provided for under section 132 which period shall commence from the 16th day of June, 2024.";

(d) for section 130, the following shall be substituted, namely:-

"130. Appellate Tribunal.- (1) There shall be established an Appellate Tribunal Inland Revenue hereinafter called as the Appellate Tribunal to exercise jurisdiction, conferred on it under this Ordinance.

Provided that the existing members including Chairman of the Appellate Tribunal shall continue to hold office, on the same terms and

conditions as applicable to them prior to the commencement of the Tax Laws (Amendment) Act, 2024 (of 2024), till the completion of their term of office unless removed earlier on the grounds provided in the proviso to sub-section (5).

(2) The Appellate Tribunal shall consist of members who shall be appointed by the Federal Government in such numbers, in accordance with such procedure and on such terms and conditions as the Federal Government may prescribe by rules, which shall be made and take effect notwithstanding anything contained in section 237 of this Ordinance or the Federal Public Service Commission Ordinance, 1977 (XLV of 1977) or any other law or rules, for the time being in force.

(3) A person shall be eligible to be appointed as a member of the Appellate Tribunal if he-

- (a) is an advocate of a High Court for not less than fifteen years and possesses such other qualifications as may be prescribed by rules;
- (b) has for a period of not less than ten years practiced professionally as a chartered accountant within the meaning of the Chartered Accountants' Ordinance, 1961 (X of 1961);
- (c) is an Officer of the Inland Revenue in BS-21 or above; or
- (d) is an Officer of the Inland Revenue in BS-20, having served in such grade for three years or more.

(4) The Federal Government shall appoint any member possessing qualifications provided in clauses (a) and (b) of sub-section (3) as Chairman of the Appellate Tribunal. The Chairman shall hold office for a period of three years provided that the Federal Government may reappoint the Chairman for such further term or terms as it may deem appropriate.

(5) The members including, the Chairman shall cease to hold office on attaining the age of sixty-two years provided that the members falling under clauses (c) and (d) of sub-section (3) shall cease to hold office on attaining the age of superannuation, under the law regulating their service:

Provided that a member including the Chairman may be removed by the Federal Government, on the recommendation of performance review committee, to be constituted by the rules made under sub-section (2), at any time before the expiry of his term or attaining the age of superannuation, as the case may be, on grounds, *inter-alia*, of inefficiency or misconduct, as prescribed by the rules made under sub-section (2).

(6) The procedure of the Appellate Tribunal Inland Revenue including constitution of benches, case management system, distribution of cases and other matters ancillary or incidental thereto shall be regulated by the rules made under sub-section (2).”;

(e) for section 131, the following shall be substituted, namely:-

"131. Appeal to the Appellate Tribunal.—(1) Any person, other than an SOE, aggrieved by any order passed by an Officer of Inland Revenue or Commissioner or Chief Commissioner or the Board or Commissioner (Appeals) under this Ordinance or the rules made thereunder may, within thirty days of the receipt of such order, prefer an appeal to the Appellate Tribunal:

Provided that where sub-section (11) of section 134A apply, an SOE may prefer an appeal under this sub-section.

(2) An appeal under sub-section (1) shall be—

- (a) in the prescribed form;
- (b) verified in the prescribed manner;
- (c) accompanied, by the prescribed fee specified in sub-section (3); and
- (d) preferred to the Appellate Tribunal within thirty days of the date of service of order on the taxpayer.

(3) The prescribed fee shall be twenty thousand rupees in case of a company and five thousand rupees in case other than a company.

(4) The Appellate Tribunal may, upon application in writing, admit an appeal after the expiration of the period specified in clause (d) of sub-section (2) if it is satisfied that the person preferring appeal was prevented by sufficient cause from filing the appeal within that period.

(5) Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case:

Provided that on filing of application in a particular case, the Appellate Tribunal may after affording an opportunity of being heard to the Commissioner having jurisdiction, for reasons to be recorded, stay the recovery of tax for ninety days:

Provided further that the stay order shall cease to have effect, and the Commissioner shall be entitled to recover tax, if the taxpayer does not adhere to the hearing schedule for the appeal, as determined by the Appellate Tribunal in accordance with the rules made under sub-section (2) of section 130.

Provided also that where an appeal is not decided within the statutory period by the Appellate Tribunal, the stay order under

the second proviso shall not cease to have effect till finalization of the appeal by the Appellate Tribunal.”;

(f) for section 132, the following shall be substituted, namely:-

"132. Decision of appeals by the Appellate Tribunal.— (1) The Appellate Tribunal shall decide the appeal within ninety days of its filing:

Provided that appeals pending before the Appellate Tribunal on the date of commencement of the Tax Laws (Amendment) Act, 2024 (of 2024), shall be decided within one hundred and eighty days:

Provided further that where an appeal is not decided within the aforesaid period, the Appellate Tribunal shall seek condonation from the Minister of Law and Justice and such condonation shall not extend beyond ninety days.

(2) At the first hearing of appeal, the Appellate Tribunal shall-

(a) bring to the notice of the taxpayer, the provisions relating to alternative dispute resolution under section 134A of the Ordinance; and

(b) should the taxpayer decline the option of alternative dispute resolution and wish to continue with the appeal, fix date or dates for hearing and decision of the appeal in consultation with the taxpayer and Commissioner and in accordance with the rules.

(3) The Appellate Tribunal shall ensure strict adherence to the aforesaid hearing schedule by the taxpayer and the Commissioner and shall hear and decide the appeal on the date or dates fixed, and no adjournment shall be granted except-

(a) where there are compelling reasons for adjournment, to be recorded by the Appellate Tribunal; and

(b) on mandatory payment of such cost as the Appellate Tribunal may deem fit, which shall not be less than fifty thousand rupees:

(4) Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (3), make an order to —

(a) affirm, modify or annul the assessment order;

(b) remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct; or

(c) make such order as the Appellate Tribunal may deem fit.

(5) The Appellate Tribunal shall not increase the amount of any assessment or penalty or decrease the amount of any refund unless the

taxpayer has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.

(6) Where, as the result of an appeal, any change is made in the assessment of an association of persons or a new assessment of an association of persons is ordered to be made, the Appellate Tribunal may authorize the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit in sub-section (2) of section 122 shall not apply to the making of such amended assessment.

(7) Where the appeal relates to a decision other than in respect of an assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and issue such consequential directions as the case may require.

(8) The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.

(9) Save as provided in section 133, the decision of the Appellate Tribunal on an appeal shall be final.";

(g) for section 133, the following shall be substituted, namely:-

"133. Reference to High Court.— (1) Within thirty days of the communication of the order of the Appellate Tribunal under sub-section (8) of section 132, the aggrieved person or the Commissioner may file a reference, in the prescribed form, along with a statement of the case, before the High Court, stating any question of law or a mixed question of law and fact arising out of such order. Provided that the applicant shall also file complete record of the Appellate Tribunal within fifteen days of preferring an application under this section.

(2) The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.

(3) Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of such order referred to in sub-section (1), it may proceed to hear the case.

(4) A reference to the High Court under this section shall be heard by a Special Bench, constituted for hearing cases under this section, comprising of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply, so far as may be, notwithstanding anything contained in any other law for the time being in force.

(5) The Special Bench shall decide a reference within six months from the date of its filing.

(6) The High Court shall establish a case management system to ensure that sufficient number of Special Benches are constituted, so as to ensure that a reference filed under this section is decided within the stipulated six months.

(7) The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Appellate Tribunal's order shall stand modified accordingly.

(8) The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.

(9) Notwithstanding that a reference has been filed before the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal:

Provided that the tax recovery shall not be made by the Commissioner for thirty days from the date of communication of the order of the Appellate Tribunal:

Provided further that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court and some amount of tax is found to be refundable, the High Court may, on application by the Commissioner within thirty days of the receipt of the judgment of the High Court that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.

(10) On an application filed in a particular reference and after affording an opportunity of being heard to the Commissioner, the High Court may stay recovery of tax, subject to deposit with the assessing authority of not less than thirty percent of the tax determined by the Appellate Tribunal. Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court earlier.

(11) Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).

(12) An application under sub-section (1) shall be accompanied by a fee of fifty thousand rupees.

(13) No application filed by the Commissioner under sub-section (1) shall be entertained unless it is accompanied by a written authorization by the relevant Chief Commissioner."; and

(h) in section 134A,-

(a) for sub-sections (1) and (2), the following shall be substituted, namely:-

"(1) Notwithstanding any other provision of this Ordinance, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to-

(a) the liability of tax of fifty million rupees or above against the aggrieved person or admissibility of refund, as the case may be;

(b) the extent of waiver of default surcharge and penalty; or

(c) any other specific relief required to resolve the dispute, may apply, except where criminal proceedings have been initiated, to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application:

Provided that where the aggrieved person is a State-Owned Enterprise (SOE), the limit of tax liability of fifty million rupees or above mentioned in clause (a) of sub-section (1) shall not apply and it shall be mandatory for such aggrieved SOE to apply to the Board for the appointment of a committee for the resolution of any dispute under this section:

Provided further that no suit, prosecution, or other legal proceedings shall lie against the SOE or the ADRC in relation to the dispute resolved under this section.

Explanation.- State-Owned Enterprise shall have the same meaning as assigned thereto in the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023).

(2) The application for dispute resolution under sub-section (1) shall be accompanied by-

(a) an initial proposition for resolution of the dispute, including an offer of tax payment; and

(b) an undertaking that the applicant shall accept the decision of the Committee which shall be binding on him in all respects and shall on receipt of the decision immediately withdraw any and all pending litigation or cases of any kind in respect of the dispute, mentioning details thereof:

Provided that if the applicant is an SOE, it shall withdraw any and all such pending litigation and cases immediately and mention the details thereof in the undertaking:

Provided further that the SOE may file an appeal to the Appellate Tribunal or the High Court or the Supreme Court, as the case may be, where sub-section (11) is applicable.”; and

(b) for sub-section (13), the following shall be substituted, namely:—

“(13) On receipt of the order of dissolution, the court of law or the Appellate Tribunal shall decide the appeal within ninety days of the communication of the said order.”.

STATEMENT OF OBJECTS AND REASONS

The purpose of this Bill is to give legislative effect to the taxation proposals of the Federal Government to liquidate a significant number of appeals pending before Commissioner IR (Appeals) and Appellate Tribunals as Appellate Tribunal Inland Revenue (ATIR) is the last fact-finding authority in the appellate hierarchy provided in fiscal statutes. Over the years, and for various reasons, including arbitrary constitution of benches, inadequate number of benches, delay in fixation of cases and disposal of appeals, a substantial amount of revenue, to the tune of Rs. 2 trillion, is held up in litigation before the ATIR.

Minister-in-Charge