Fata, Pata industries to be charged ST on import of raw material: Senate body on Finance told

The Federal Board of Revenue (FBR) has decided to impose sales tax on import of raw materials and inputs to be consumed in factories/industrial units located in the Federally Administered Tribal Areas (Fata) and Provincially Administered Tribal Areas (Pata) with effect from fiscal year 2017-18.

Reviewing the Finance Bill 2017, FBR Member Inland Revenue Policy Dr Muhammad Iqbal informed the Senate Standing Committee on Finance that the FBR wanted to provide a level-playing field to all manufacturers operating in tariff areas and non-tariff areas of Pakistan. A number of factories have been set up within the territorial jurisdiction of Fata/ Pata and taxpayers in tariff areas of Pakistan feel threatened due to exemptions available to the Fata/Pata. Taxpayers in settled areas are paying much higher taxes as compared to exempted areas of Fata/ Pata.

In order to provide level-plying field, sales tax would be collected on imports of inputs meant for Fata/Pata irrespective of the final destination. Businessmen in tribal areas should give some tax. As per amendment in the Sales Tax Act through Finance Bill, 2017, in section 3, - (i) in sub-section (1), in clause (b), after the word "Pakistan", a comma shall be inserted and thereafter, the words "irrespective of their final destination in territories of Pakistan as specified in clause (2) of Article 1 of the Constitution of Islamic Republic of Pakistan shall be inserted," the Bill added.

Dr Iqbal said that there is no tax on goods manufactured and subsequently consumed in the Fata/Pata. However, tax is chargeable when goods come from the non-tariff to tariff areas of the country. When asked by committee members that why the FBR is collecting excise duty on ghee unit located in the tribal areas, the FBR Member explained that the excise duty is collected on cigarettes and ghee/cooking oil. When the old excise law was replaced with the Federal Excise Act, a few items remained subjected to the excise duty.

Senator Saleem Mandviwalla asked the FBR team to resolve the issue of companies/businessmen, who are residing and filing their income tax returns in Azad Jammu & Kashmir (AJK) and Gilgit-Baltistan and are treated as non-filers in the FBR. The taxpayers of AJK are facing double taxation as they are depositing tax in the AJK and also liable to deposit non-filer rates of withholding tax with the FBR. Dr Iqbal said that the ATL list of the AJK is not reliable. The systems developed by Pakistan Revenue Automation Limited (PRAL) are more reliable.

The AJK is not part of the Pakistan and AJK has adopted laws of the FBR. "We need an amendment in the law to resolve the issue." If the name of a taxpayer (filer in Pakistan) is not appearing in the active taxpayer list (ATL) of AJK and Gilgit-Baltistan, such taxpayer has been treated as a non-filer in the territories of AJK and liable to enhanced rates of withholding taxes. The FBR will approach the governments of AJK and Gilgit-Baltistan to resolve the issue because the companies operating in AJK and the GB are being treated as non-filers despite being filers in Pakistan, he said.

According to the FBR, the Income Tax Ordinance, 2001 extends to the whole of Pakistan. The territories comprising Pakistan are specified in Article 1(2) of the Constitution. According to the said article, the areas comprising Pakistan include the provinces of Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh; Islamabad Capital Territory;

Fata and such states or territories as are or may be included in Pakistan, whether by accession or otherwise.

The territories of AJK and the GB do not constitute a part of Pakistan in terms of Article 1(2) of the Constitution and, therefore, are not federally administered territories as mentioned in the agenda. The AJK and GB are independent jurisdictions and, as such, the Income Tax Law in Pakistan does not extend to these areas which are treated as foreign territories as far as application of Pakistan's tax laws is concerned. In view of the said constitutional position, the AJK Council and the Gilgit-Baltistan Council have adapted the Income Tax law in Pakistan through their legislative assemblies. These Acts are called the Azad Jammu and Kashmir Adaptation of Laws Act, 1959 and the Gilgit-Baltistan Council Income Tax (Adaptation) Act, 2012.

Under these enactments, the GB and AJK councils have adapted Pakistan's Income Tax law ie the Income Tax Ordinance, 2001 and the Finance Acts passed subsequently by the National Assembly of Pakistan for purposes of their own territories. However, AJK and GB are foreign territories as far as applicability of the Income Tax Ordinance, 2001 is concerned.

Persons residing in Pakistan, who are filing their income tax returns in the country, are treated as non-filers in AJK and GB and vice versa unless such taxpayers file their returns in AJK / GB and Pakistan, simultaneously, as the case may be. In terms of the Income Tax Ordinance, 2001 a "filer" is a person whose name appears on the active taxpayers list issued by the FBR. However, if the name of a taxpayer is not appearing in the ATL of AJK and GB, such taxpayer is treated as a non-filer in these territories and is subjected to enhanced rates of withholding taxes, the FBR added.